

1 IN THE UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION

4 UNITED STATES OF AMERICA, }

5 Government, }

6 vs. }

7 ROD BLAGOJEVICH, }

8 ROBERT BLAGOJEVICH, }

9 Defendants. } No. 08 CR 888
10 } Chicago, Illinois
11 } June 21, 2010
12 } 9:43 o'clock a.m.

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9 } VOLUME 11
10 } TRANSCRIPT OF PROCEEDINGS
11 } BEFORE THE HONORABLE JAMES B. ZAGEL
12 } AND A JURY

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For the Government:

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Ata - cross by Adam, Jr.

2109

1 THE CLERK: All rise.

2 (The following proceedings were had in the
3 presence of the jury in open court:)

4 THE COURT: Please be seated.

:43AM

5 You may resume.

6 ALI ATA, GOVERNMENT WITNESS, PREVIOUSLY SWORN
7 CROSS EXAMINATION (resumed)

8 BY MR. ADAM, JR.:
9 Q Good morning, Mr. Ata.

:43AM

10 A Good morning.

11 Q I have just a few more questions. Not that many
12 for you.

13 A Yes, sir.

:43AM

14 Q Mr. Ata, you told us last week that at the time
15 in which you began working as the executive director
16 at the IFA, that you and Mr. Rezko had been in
17 business together by that time, is that correct?

18 A Yes.

:43AM

19 Q In fact, he owed you approximately \$2 million by
20 the time you became the executive director?

21 A I don't know if it was by the time.

22 Q Is that fair to say right around that time it was
23 approximately \$2 million he owed you?

:43AM

24 A I don't know exactly what he owed me as of that
25 date, but as of today I believe it's \$2 million,

Ata - cross by Adam, Jr.

2110

1 yes.

2 Q well, the project at Irving Park, you say you
3 loaned him a million dollars?

4 A Yes.

:43AM

5 Q That was before 2004, correct?

6 A Yes.

7 Q And the million dollars that you loaned him for
8 the Roosevelt and Clark project, that was before
9 2004, is that fair?

:44AM

10 A I believe it was.

11 Q So by 2004, then, approximately, \$2 million you
12 owed -- or Mr. Rezko owed you, is that right?

13 A And the 2 million probably includes profits that
14 I was to receive from those projects.

:44AM

15 Q And at the time in which you became the IFA
16 director, did you put any of those loans that you
17 had made to Rezko on any economic interest
18 statements that you had to fill out in order to
19 become a state employee?

:44AM

20 A I -- I believe in my -- that on my disclosure
21 statement, that I did list Roosevelt and Clark as a
22 project.

23 Q But not the Irving Park, is that fair to say?

24 A Not the Irving Park.

:44AM

25 Q And at the time in which you became the IFA

Ata - cross by Adam, Jr.

2111

1 director, you had a boss by the name of John Filan,
2 is that correct?

3 A No, he was not my boss.

4 Q Well, who was John Filan to you as the IFA
:45AM
5 director?

6 A He is somebody who I worked with initially and I
7 occasionally reported to him, but he wasn't my boss.

8 Q Fair enough.

9 At any time did you tell Mr. Filan that
:45AM
10 Mr. Rezko owed you \$2 million, that you recall?

11 A No.

12 Q Or at any time did you tell Governor Blagojevich
13 that Rezko owed you \$2 million?

14 A No, I did not.

15 Q You have told the ladies and gentlemen of the
16 jury that at some point, either right before
17 becoming the IFA director or right after that,
18 Mr. Rezko informed you that you needed to report to
19 Mr. Rezko, do you recall that?

20 A Before I became a director.

21 Q He told you to report to him, is that correct?

22 A Yes.

23 Q At any time did the Governor tell you that you
24 must report to Rezko?

25 A No, he did not.

Ata - cross by Adam, Jr.

2112

1 Q At any time did you tell the Governor that you
2 were reporting to Mr. Rezko?

3 A No, I did not.

4 Q John Filan, did you ever tell him that you had to
:46AM report to Mr. Rezko?

5 A I did not.

6 Q Going back just very shortly to the meeting that
7 you say you had at the offices of Rezmar in which
8 you gave Mr. Rezko a 25-thousand-dollar check and
9 the Governor was there, do you recall that?
:46AM

10 A I do recall.

11 Q You told us that there was another person in the
12 room by the name of Jay Hoffman, is that correct?

13 A Yes, I learned -- I didn't know Jay Hoffman at
14 that point, I learned later on that it was Jay
15 Hoffman.
:46AM

16 Q And, in fact, you told us later on after that
17 meeting, you sought the position for the Illinois
18 Capital Development director, is that correct?

19 A Yes.
:46AM

20 Q And Mr. Rezko informed you you couldn't have that
21 because he had spoken with somebody in the
22 legislature, is that correct?

23 A That was later, that was March time frame of '03
24 that Mr. Rezko told me I couldn't have that because
25 :47AM

Ata - cross by Adam, Jr.

2113

1 he had just gotten off the phone with Jay Hoffman.

2 Q And that's the same Jay Hoffman that had been in
3 the room when you went over to Rezmar, is that
4 correct?

:47AM

5 A I believe so.

6 Q And you came to learn that Jay Hoffman was an
7 Illinois representative, isn't that true?

8 A Yes.

:47AM

9 MR. ADAM, JR.: May I have one moment, Your
10 Honor?

11 THE COURT: You may.

12 (Brief pause).

13 MR. ADAM, JR.: Thank you, Your Honor. I
14 have no further questions, Mr. Ata.

:47AM

15 MS. HAMILTON: No redirect.

16 THE COURT: You may step down.

17 (witness excused.)

18 THE COURT: Another witness.

:48AM

19 MR. SCHAR: Yes, the government calls
20 Michael.

21 THE COURT: Face me and raise your right
22 hand.

23 (witness duly sworn.)

24 THE COURT: Please be seated.

:49AM

25

Horst - direct by Schar

2114

1 MICHAEL HORST, GOVERNMENT WITNESS, SWORN

2 DIRECT EXAMINATION

3 BY MR. SCHAR:

4 Q Please state and spell your name for us.

:49AM

5 A My name is Michael Horst, H-o-r-s-t.

6 Q What do you do for a living, Mr. Horst?

7 A I'm a public accountant.

8 Q Do you have your own business?

:49AM

9 A Yes, I do.

10 Q What is the name of your own business?

11 A Horst & Company.

12 Q How long have you owned your own business?

13 A For approximately 30 years.

:49AM

14 Q How long have you been an accountant?

15 A About 35 years.

16 Q Are you the sole proprietor of that business?

17 A Yes, sir.

18 Q Can you just briefly explain for us your
19 educational background, Mr. Horst.

:49AM

20 A I graduated from the University of Arizona with a
21 bachelor in science degree in business
22 administration and an accounting major. I obtained
23 my certificate of certified public accountancy from
24 the University of Illinois.

:50AM

25 Q Back in late 2003 and early 2004 were you

Horst - direct by Schar

2115

1 familiar with an entity called the Illinois Finance
2 Authority?

3 A No, sir.

4 Q How about an entity sometimes referred to as the
:50AM 5 IFA? At that time had you ever heard of IFA?

6 A No, sir.

7 Q To your knowledge, Mr. Horst, did you ever
8 interview for the position as executive director of
9 the IFA?

:50AM 10 A No, sir.

11 Q That's something you think you would remember?

12 A Yes.

13 Q Back in late 2003 did you have a full-time job as
14 an accountant?

:50AM 15 A Yes.

16 Q Were you looking for a knew full time job?

17 A I was not.

18 Q would you have taken the job as the executive
19 director of the IFA if it had been offered to you?

:50AM 20 A No, sir.

21 MR. SOROSKY: Objection.

22 THE COURT: Overruled. The answer may stand
23 679.

24 BY MR. SCHAR:

:51AM 25 Q Were you interested in starting a new career in

Horst - direct by Schar

2116

1 2003, early 2004?

2 A No, sir.

3 MR. SCHAR: Judge, I would like to briefly
4 republish Government Exhibit IFA Board Minutes, if I
5 may?
:51AM

6 THE COURT: You may.

7 (Exhibit published to the jury.)

8 BY MR. SCHAR:

9 Q Mr. Horst, I want you to take a look at either
10 the computer screen in front of you or the screen in
11 the courtroom.
:51AM

12 I'm showing you what's been marked Government
13 Exhibit FHA Board Minutes indicating a special
14 meeting held at 10:30, February 5th, 2004, were you
15 present for that meeting?
:51AM

16 A No, sir.

17 Q Do you see your name on that, Michael Horst?

18 A Yes, I do.

19 Q Do you know any other Michael Horst?

20 A No.
:52AM

21 Q At the top it says:

22 "Governor Blagojevich had nominated the
23 candidates, Mr. Ali D. Ata and Mr. Michael
24 Horst for the position of executive director."
25 Did you ask Defendant Blagojevich to nominate
:52AM

Horst - direct by Schar

2117

1 you for the position of FHA director of 2004?

2 A No.

3 Q Do you have any idea why he did it?

4 A No.

:52AM

5 Q At that point had you ever met Defendant
6 Blagojevich?

7 A No.

8 Q Are you familiar with an individual named Chris
9 Kelly?

:53AM

10 A Yes, sir.

11 Q How are you familiar with Chris Kelly?

12 A Chris Kelly's construction company rented an
13 office space in the same building as one of my
14 clients.

:53AM

15 Q Who was that client?

16 A Castle Construction Corporation.

17 Q And Mr. Kelly's business was located in the
18 same --

19 A Same building.

:53AM

20 Q And did you have occasion to meet Mr. Kelly while
21 you were in that office building?

22 A Yes.

23 Q Approximately how many times would you see him a
24 year?

:53AM

25 A Approximately 3 or 4 times a year.

Horst - cross by Sorosky

2118

1 Q Had you met Mr. Kelly prior to the late 2003,
2 early 2004 time period?

3 A Yes.

4 Q At some point had you actually shared a table
:53AM 5 with him at a party?

6 A Yes, at a Christmas party held by Castle
7 Construction.

8 Q Was that prior to the late 2003, 2004 time
9 period?
:53AM

10 A Yes.

11 MR. SCHAR: May I have one moment, Judge.
12 (Brief pause)

13 MR. SCHAR: Nothing further, Judge.

14 CROSS EXAMINATION

15 :54AM BY MR. SOROSKY:

16 Q Hello, Mr. Horst. How are you?

17 A Fine. Thank you.

18 Q I'm one of Mr. Blagojevich's lawyers and I'm
19 going to ask you some questions.

20 A All right.

21 Q Now, you don't know Governor Blagojevich, do you?

22 A No, sir.

23 Q And you didn't know him before this interview,
24 did you?

25 A No, sir.

1 Q And you never asked for any job in the
2 Blagojevich administration of any type, did you?

3 A No, sir.

4 Q And you didn't want any job in the Blagojevich
:55AM administration, did you?

5 A No, sir.

6 Q So you certainly didn't feel bad that you didn't
7 receive any job from the Blagojevich administration,
8 did you?

:55AM 9 A No, sir.

10 Q In fact, you're a conservative, are you not?

11 MR. SCHAR: Objection.

12 THE COURT: The objection is sustained.

13 BY MR. SOROSKY:

14 Q You donated to President George Bush, did you
:55AM not?

15 MR. SCHAR: Objection.

16 BY THE WITNESS:

17 A I did.

18 THE COURT: The objection is sustained.

19 BY MR. SOROSKY:

20 Q Now, you've been a successful certified public
21 accountant for about 30, 35 years, have you not?

22 A Yes, sir.

23 :55AM Q And one of your clients is Castle Construction?

Horst - cross by Sorosky

2120

1 A Corporation; that's correct.

2 Q And I would assume Castle Construction is a
3 building company, is that correct?

4 A That's right.

:55AM

5 Q And Mr. Kelly, a man by the name of Christopher
6 Kelly, he owned a roofing company, did he not?

7 A Yes.

:56AM

8 Q And Kelly's roofing company was in the same
9 building facility as Castle Construction, was it
10 not?

11 A Yes.

:56AM

12 Q And being the accountant for Castle Construction,
13 you would regularly go to the Castle Construction
14 offices, do you not?

15 A I would be there possibly once a year.

:56AM

16 Q And as a result of going there, did you come to
17 meet and become acquainted with Christopher Kelly?
18 A Yes.

19 Q And so you and Christopher Kelly were not close
20 personal friends, were you?

21 A No, we were not.

:56AM

22 Q But would it be accurate to say you were
23 acquaintances and developed some acquaintanceship
24 with Mr. Kelly as a result of you doing your
25 accounting work for Castle Construction?

Horst - cross by Sorosky

2121

1 A We had very few conversations other than hellos
2 in the hallway.

3 Q But to the best of your knowledge, Mr. Kelly knew
4 you to be a successful accountant, did he not?

:57AM

5 A If -- I believe so, yes.

6 Q And somewhere along the way Mr. Kelly asked you
7 if you would be interested in being interviewed for
8 a position on one of boards of the State of
9 Illinois, did he not?

:57AM

10 A Yes, in the latter part of 2004.

11 Q The latter part of 2004?

12 A Yes, sir.

13 Q Might it have been 2003?

14 A No, sir.

:57AM

15 Q Okay. And you agreed to go to this interview,
16 did you not?

17 A Yes, I did.

18 MR. SCHAR: Objection.

19 THE COURT: The objection is sustained.

:57AM

20 BY MR. SOROSKY:

21 Q And when you went to this interview, you were
22 interviewed by someone who indicated he went to
23 school with Mr. Blagojevich, were you not?

24 MR. SCHAR: Objection; scope.

:58AM

25 THE COURT: The objection is sustained.

1 This is way beyond the scope of direct.

2 BY MR. SOROSKY:

3 Q Well, during this interview, did you --

4 MR. SCHAR: Objection.

5 THE COURT: The objection is sustained.

6 MR. SOROSKY: Very good.

7 BY MR. SOROSKY:

8 Q Now, did you submit a resume prior to -- did you
9 submit an interview -- excuse me.

10 Did you submit a resume prior to going to
11 the -- prior to going to this interview?

12 MR. SCHAR: Objection.

13 THE COURT: The objection to the question as
14 asked is sustained. If you want to ask him if he
15 submitted a resume.

16 BY MR. SOROSKY:

17 Q Did you submit a resume?

18 A I submitted a resume to Chris Kelly.

19 Q To Chris Kelly.

20 Now, you don't know if anyone at the state
21 looked at your resume and felt you would be a good
22 candidate for director of the Illinois Finance
23 Authority, do you?

24 A No.

25 Q And you certainly -- you certainly were a CPA,

:58AM

:58AM

:59AM

:59AM

:59AM

Horst - redirect by Schar

2123

1 were you not?

2 A Yes.

3 MR. SOROSKY: Nothing furthers of this
4 witness.

:59AM

5 MR. SCHAR: Briefly, Judge.

6 REDIRECT EXAMINATION

7 BY MR. SCHAR:

8 Q Did you submit the resume in the late summer
9 of 2004, approximately?

:59AM

10 A It was the latter part of 2004, yes.

11 Q Well after you had apparently been nominated to
12 be deputy director of IFA in late 2003, early 2004?

13 A Based upon these documents, yes.

14 Q Thank you.

:00AM

15 MR. SCHAR: Nothing further.

16 MR. SOROSKY: Nothing.

17 THE COURT: You may step down.

18 (witness excused.)

19 THE COURT: Next witness?

:00AM

20 MR. SCHAR: The government calls John
21 Johnston, Your Honor.

22 THE COURT: Face me and raise your right
23 hand.

24 (witness duly sworn.)

:02AM

25 JOHN JOHNSTON, GOVERNMENT WITNESS, SWORN

Johnston - direct by Niewoehner

2124

1 DIRECT EXAMINATION

2 BY MR. NIEWOEHNER:

3 Q Could you say your name and spell your last name,
4 please.

:02AM

5 A John Johnston, J-o-h-n-s-t-o-n.

6 Q How old are you?

7 A 48.

8 Q Where do you currently live?

9 A I live in the western suburbs of Chicago.

:02AM

10 Q What's your occupation?

11 A I am a racetrack executive with Maywood Park and
12 Balmoral Park racetracks.

13 Q What do Balmoral and Maywood Park do?

14 A They operate horse racing facilities here in the
15 State of Illinois.

:02AM

16 Q Do you have any ownership interest in those
17 companies?

18 A I do.

19 Q What kind of ownership interest do you have?

:02AM

20 A I have a minority ownership interest in both of
21 the facilities.

22 Q And do members of your family also have an
23 interest in those corporations?

24 A Yes, they do.

:02AM

25 Q About how much does your family own of those

Johnston - direct by Niewoehner

2125

1 corporations?

2 A Approximately a third.

3 Q You mentioned there is a racetrack that is owned
4 by the Maywood Park Association, is that right?

:03AM

5 A Yes.

6 Q Where is that racetrack located?

7 A Unincorporated Cook County but basically the
8 Melrose Park area.

:03AM

9 Q About how many horse races are held at the
10 Melrose Park every year?

11 A Approximately 100 racing evenings.

12 Q About how many employees work there?

13 A About 1,000.

:03AM

14 Q What's the name of the racetrack that's owned by
15 the Balmoral Company?

16 A It's referred to as Balmoral Park Racetrack.

17 Q Where is that racetrack located?

18 A Crete, on the south side.

:03AM

19 Q About how many races are held at the Crete track?

20 A Approximately 200 racing evenings a year.

21 Q And about how many people work at that track?

22 A About 1,000 also.

23 Q How long have you worked -- have you worked at
24 the track at Melrose Park and Crete?

:03AM

25 A Over 20-plus years.

Johnston - direct by Niewoehner

2126

1 Q what are your current responsibilities with
2 respect to those two tracks?

3 A I have overall management, oversight
4 responsibility for both facilities.

:04AM

5 Q Are you the person who is primarily responsible
6 for running the businesses?

7 A I am.

:04AM

8 Q About how long have you been the person who's
9 been primarily responsible for running the two
10 businesses?

11 A Approximately the last 8 to 10 years.

12 Q Do you have an agreement with the government that
13 governs your testimony today?

14 A I do.

:04AM

15 Q And what kind of agreement do you have?

16 A I have an immunity agreement.

:04AM

17 Q what do you understand you have to do under that
18 immunity agreement?

19 A Come and testify before this Court today and in a
20 truthful manner.

21 Q what would happen if you were not truthful in
22 your testimony -- or what could happen if you were
23 not truthful?

24 A It would be illegal. I'd be prosecuted.

:04AM

25 Q Have you ever met Rod Blagojevich?

Johnston - direct by Niewoehner

2127

1 A I have.

2 Q Do you see that person in the courtroom today?

3 A I do.

4 Q Could you identify where he is sitting?

:05AM

5 A He is at the far end of that table.

6 THE COURT: The identification has been
7 stipulated to.

8 MR. NIEWOEHN: Thank you, Your Honor.

9 BY MR. NIEWOEHN:

:05AM

10 Q Do you understand that Defendant Blagojevich
11 became Governor of Illinois at some point?

12 A I do.

13 Q Did you meet with him before he became Governor?

14 A I did.

:05AM

15 Q About when did you first meet with him?

16 A Approximately the spring of 2002.

17 Q How was it that you met Defendant Blagojevich?

18 A I met him at a meeting that I requested to meet
19 the newly elected Democratic nominee for Governor.

:05AM

20 Q And when you say "newly elected," are you
21 referring to the primary election?

22 A Correct. He had won the primary.

23 Q Who was present at that meeting?

:05AM

24 A There were several people, but myself; my father,
25 Billy Johnston; an associate of mine, and Chris

Johnston - direct by Niewoehner

2128

1 Kelly and the Governor, and a few other staffers.

2 Q Was your father affiliated with the racetrack at
3 that point?

4 A He was.

:06AM

5 Q What was his role at that point?

6 A He was the chairman of the board of directors.

7 Q What was the purpose of your meeting with
8 Defendant Blagojevich?

:06AM

9 A Just to introduce ourselves to him, primarily,
10 and meet him.

11 Q Had you met Chris Kelly prior to that meeting?

12 A No, I did not.

13 Q After that meeting, did you meet with Kelly again
14 before the general election in November of 2002?

:06AM

15 A Yes.

16 Q Did you meet with him more than once?

17 A Yes.

18 Q Did you discuss fundraising in any of those
19 meetings?

:06AM

20 A I did.

21 Q Did you and your father make any contributions to
22 Defendant Blagojevich during the 2002 campaign?

23 A Yes, we did.

24 Q When you made the contributions, where did the
25 contributions come from?

:06AM

Johnston - direct by Niewoehner

2129

1 A various corporations that operate at the
2 racetrack.

3 Q Did you and your father control those
4 corporations?

:07AM

5 A Yes.

6 Q And after Defendant Blagojevich became Governor
7 in 2003, did you continue to make contributions to
8 him?

9 A Yes.

:07AM

10 Q Where did those contributions come from,
11 generally?

12 A Similar; corporations.

13 Q Who did you deal with from Defendant
14 Blagojevich's campaign about fundraising?

:07AM

15 A Chris Kelly.

16 Q And beginning in 2003, was there a particular
17 fundraising event that you particularly attended for
18 Defendant Blagojevich?

:07AM

19 A Yes, the Governor typically had an early summer,
20 late spring fundraiser.

21 Q And about how many people, typically, attended
22 that event?

23 A Hundreds, if not maybe a thousand.

24 Q When you attend that event, did you typically
25 make a contribution around that time frame?

:07AM

Johnston - direct by Niewoehner

2130

1 A Yes, I did.

2 Q Did Defendant Blagojevich run for reelection in
3 2006?

4 A Yes.

:07AM

5 Q And in that campaign, did you arrange for your
6 companies to make some additional contribution?

7 A Yes, I did.

8 Q Did you make a contribution to Defendant
9 Blagojevich in 2007?

:08AM

10 A Yes.

11 MR. NIEWOEHNER: Your Honor, may I approach?

12 THE COURT: You may.

13 BY MR. NIEWOEHNER:

:08AM

14 Q I'm going to show you what's been marked as
15 Government Exhibit Johnston Contribution Summary.

16 what is that?

17 A This is a chart depicting the contributions we
18 made to the Blagojevich campaign over the years.

:08AM

19 Q And did you go through some of your bank records
20 to determine where those contributions came from?

21 A Yes.

22 Q Were those bank records voluminous?

23 A They were.

:08AM

24 Q Does that chart fairly and accurately summarize
25 the documents relating to your contributions?

1 A Yes.

2 MR. NIEWOEHNER: Your Honor, I'm going to
3 offer Government Exhibit Johnston Contribution
4 Summary under Rule 1006.

:09AM

5 MR. ADAM, JR.: No objection.

6 THE COURT: Admitted.

7 (Government's Exhibit Johnston Contribution
8 Summary was received in evidence.)

:09AM

9 MR. NIEWOEHNER: May I publish it, Your
10 Honor.

11 THE COURT: You may.

12 (Exhibit published to the jury)

13 BY MR. NIEWOEHNER:

:09AM

14 Q Now, if you could just focus along the top black
15 line, there is a series of names there, do you see
16 that? Starting with "racing associations" and going
17 to the right?

18 A Yes, I see it.

:09AM

19 Q And could you just walk through those different
20 names and tell me what those different entities are.

21 A Yes, they're various corporations as
22 sub-corporations within the racetrack that conduct
23 different business within the facility.

:09AM

24 Q So, for example, "Balmoral" is on there. What is
25 Balmoral?

Johnston - direct by Niewoehner

2132

1 A Balmoral is the racetrack itself.

2 Q Okay. And there is an entry for Maywood, what is
3 that?

4 A That is the actual corporate account for Maywood
5 Park.

:09AM
6 Q And the other entries, there are five other ones,
7 Associates Racing Association, Coast to Coast, and
8 others. Generally speaking, what are those other
9 entities?

:10AM
10 A The one, the Coast to Coast, is a food service
11 corporation. Associates Racing Association is a
12 minority partner that we have in the facilities.

13 Q Are those all different companies that you
14 control in some way?

:10AM
15 A Yes.

16 Q And are they all related to your horse racing
17 track companies in some way?

18 A Yes.

19 Q And on the left-hand side there is a date column,
20 do you see that?

:10AM
21 A Yes.

22 Q What does that column represent?

23 A That is the date the checks were actually
24 granted.

:10AM
25 Q So, for example, on the first one it's May 17th

Johnston - direct by Niewoehner

2133

1 of 2002, what checks were drafted on that date?

2 A The ones -- the -- the ones that line up across
3 that row.

4 Q So there is a 20-thousand-dollar one for Racing
:11AM Associations, is that an example of that?

5 A Yes.

6 Q And then on the far right-hand column, there is a
7 total column, do you see that?

8 A Yes.

9 :11AM Q And what does that total represent?

10 A The sum of those five checks.

11 Q Okay. And if you go down, do you see there are
12 lines by each year, essentially, is that right?

13 A Yes.

14 :11AM Q The at the bottom right-hand corner there is a
15 figure of 320,000, do you see that?

16 A Yes.

17 Q what does that represent?

18 :11AM A The sum of all the contributions over the 7
19 years -- 5 or 6 years.

20 Q Mr. Johnston, as you go through each year after
21 2002, you make a contribution in about June or July
22 of each year from 2003 through 2006, is that right?

23 A Yes.

24 :11AM Q And what was that contribution in relation to

Johnston - direct by Niewoehner

2134

1 each year?

2 A I'm sorry, what was that?

3 Q Was that about the time of the annual fundraiser
4 you talked about before?

:11AM

5 A Yes.

6 Q In 2007, you did not make a contribution around
7 the summer of 2007, is that right?

8 A That's correct.

:12AM

9 Q Was there, in fact, still an annual fundraiser
10 around that time frame for Defendant Blagojevich?

11 A I believe so.

:12AM

12 Q And your contribution you made on December 28th
13 of 2007, is that correct?

14 A Yes.

:12AM

15 Q Why did you wait in 2007 to make a contribution
16 in December as opposed to doing it in the summer?

17 A For a variety of reasons. I would say, one,
18 which was that revenues were down considerably at
19 the track. The Governor was no longer going to be
20 running, and our philosophy on giving campaigns to
21 legislators was to provide funds for their
22 offices--fliers, radio, TV ads, radio ads,
23 staffers--and we knew that the Governor's campaign
24 fund at that point was being used for, nothing
25 against the lawyers, but legal fees, and we weren't

:13AM

Johnston - direct by Niewoehner

2135

1 overly excited about paying legal bills.

2 Q So was that an intentional decision to delay the
3 timing of your contributions in 2007?

4 A Yes.

:13AM

5 Q Now I'm going to focus on the time period from
6 2003 to 2006.

7 In that time frame, was there anyone in
8 particular that you dealt with from Friends of
9 Blagojevich?

:13AM

10 A Yes.

11 Q Who is that?

12 A Chris Kelly.

13 Q What kind of relationship did you develop with
14 Mr. Kelly?

:13AM

15 A It started out in the initial meeting as a
16 professional relationship and it developed into a
17 social relationship.

18 Q So by, for example, in 2006, approximately how
19 often would you be talking with Mr. Kelly?

:13AM

20 A Probably once a week.

21 Q And in 2003 to 2006, did you observe Kelly and
22 Defendant Blagojevich together at times?

23 A I did.

24 Q And about how often might you see the two of them
25 together in about a year?

:14AM

Johnston - direct by Niewoehner

2136

1 A A half dozen times.

2 Q And what type of event did you typically see
3 Kelly and Defendant Blagojevich together at?

4 A Generally at a fundraiser or occasionally at the
5 DuQuoin State Fair.

6 Q what did you observe about the relationship
7 between Kelly and Defendant Blagojevich?

8 A They were very close friends.

9 Q And did you talk with Kelly from 2003 to 2006
10 about Defendant Blagojevich?

11 A Yes.

12 Q And what, if anything, did Kelly indicate about
13 his relationship with Defendant Blagojevich in that
14 time frame?

15 MR. GILLESPIE: Objection. Can we have a
16 date on this, please?

17 THE COURT: The best date you can have.

18 BY MR. NIEWOEHNER:

19 Q You had a number of conversations between '03 and
20 '06, is that right?

21 A Yes.

22 Q Do you recall the specific day of any of these
23 particular conversations?

24 A Not particular days, no.

25 Q So, generally speaking, do you recall those

Johnston - direct by Niewoehner

2137

1 conversations?

2 A which conversations are these that you're
3 referring to now?

4 Q 2003 to 2006 when you are talking to Chris Kelly,
5 do you generally recall what you were talking about?

6 A I mean, we had many, many conversations, but --

7 Q Right. And so when you're talking about these
8 conversations, do you have a general recollection of
9 them as opposed to a specific recollection?

10 A More of a general recollection.

11 Q Okay. And what did Mr. Kelly indicate, generally
12 speaking, about his relationship with Defendant
13 Blagojevich?

14 A That he was very close to him and they spoke
15 often.

16 Q Now I'm going to direct your attention to the
17 2003 to 2005 time frame now.

18 Was there a particular state policy issue
19 that you were concerned about in that time period?

20 A Yes.

21 Q And what was that?

22 A Generally, our industry is regulated into doing
23 many things that we need to do. We have to
24 either -- we have to pass legislation sometimes.

25 Q Were you interested, in that time frame, in the

Johnston - direct by Niewoehner

2138

1 possibility of putting gaming devices at the horse
2 race tracks?

3 A Yes.

4 Q Is that something you wanted to happen?

:16AM

5 A Yes.

6 Q Why was that?

7 A Because it would broaden our fan base, it would
8 create additional revenues for the breeders and the
9 horses and the horsemen.

:16AM

10 Q Did Defendant Blagojevich have the power to allow
11 racetracks to have gaming devices at the tracks?

12 A He had some authority over it, but also the State
13 Senate and House had probably a larger role.

:16AM

14 Q Was there going to be a law that had to be passed
15 before you would be allowed to put gaming devices at
16 the racetracks?

17 A Yes.

18 Q And did the Illinois legislature ever pass a bill
19 that allowed the racetracks to have gaming devices
20 in that time frame?

21 A No.

22 Q As a result, did Defendant Blagojevich ever have
23 the power to sign a bill that would allow that to
24 happen?

:17AM

25 A No.

Johnston - direct by Niewoehner

2139

1 Q I'm going to turn your attention now to 2006.
2 In that year, was there a law passed that
3 affected your racetracks?

4 A Yes.

:17AM

5 Q And what, generally speaking, did that law do?

6 A That law was a tax on riverboat casinos that
7 benefited the Illinois agricultural industry in the
8 form of horse racing.

:17AM

9 Q And about when did that law go into effect?

10 A May of 2006.

:17AM

11 Q You understand what I'm talking about if I refer
12 to that law as the 2006 law?

13 A Yes.

:17AM

14 Q And under the 2006 law, were your racetracks
15 supposed to receive any money?

16 A Yes.

17 Q And were other parts of the horse racing industry
18 also supposed to receive money in the 2006 law?

19 A Yes.

:18AM

20 Q About how long did the 2006 law provide that
21 casinos would pay those tax?

22 A It was after 2 years the legislation would sunset
23 or expire.

24 Q So under the law, what happened in May of 2008?

:18AM

25 A I'm sorry, could you say that again?

Johnston - direct by Niewoehner

2140

1 Q Under the law, what was supposed to happen in May
2 of 2008?

3 A In May of 2008 we tried to get the bill, which
4 had just expired, extended.

:18AM

5 Q Okay. And did the bill -- the 2006 law, was it
6 still in effect as of May 2008?

7 A I believe it ended some time in May 2008. I
8 don't know specifically which date.

:18AM

9 Q Going back to the 2006 time frame, did Defendant
10 Blagojevich sign the 2006 law?

11 A Yes.

12 Q He signed it into law, I should say.

13 A Yes.

:19AM

14 Q Was there any public signing ceremony that
15 related to his signing of that bill in 2006?

16 A No.

17 Q Now, did the horse racing industry actually
18 receive any money from the casinos from May 2006
19 through May of 2008?

:19AM

20 A No.

21 Q Why not?

22 A Because the riverboat casinos contested certain
23 aspects of the bill, six of them in total.

24 Q Were there any lawsuits filed about this law?

:19AM

25 A Yes.

Johnston - direct by Niewoehner

2141

1 Q who filed the lawsuits?

2 A The riverboats.

3 Q And as a result of the lawsuits, was any money
4 actually given to your racetracks?

:19AM

5 A No.

6 Q About how much money were the casinos supposed to
7 pay the racing industry in that period under that
8 2006 law?

:19AM

9 A I don't know the exact number. It depended. It
10 was a percentage of their overall business, which
11 fluctuated, but it was -- it was around \$30 million
12 a year, approximately, to be divided up between all
13 the entities.

:20AM

14 Q Okay. And your racetracks would receive some
15 portion of that approximately 30 million?

16 A Yes.

17 Q And the reason the money wasn't being held, was
18 that because it was being held due to the lawsuits?

19 A Yes.

:20AM

20 Q Now, in May of 2008, you said the 2006 law was to
21 expire. Around that time frame, did you do anything
22 about the fact that the bill was going to expire?

23 A Yes, we lobbied--"we" being defined as, you know,
24 all the entities concerned with racing--to get it
25 extended.

:20AM

Johnston - direct by Niewoehner

2142

1 Q Did the Illinois legislature meet in the spring
2 of 2008?

3 A They did.

4 Q Was there a law passed in the spring of 2008 that
:20AM
5 would extend that casino tax?

6 A No.

7 Q So as a result, what happened to the tax?

8 A It expired.

9 Q I'm going to direct your attention to April
:21AM
10 of 2008.

11 Did you talk with Defendant Blagojevich in
12 that month?

13 A I did.

14 Q Where did you talk with him?

:21AM
15 A In his Friends of Blagojevich campaign office.

16 Q About where was that located?

17 A Downtown Chicago, Ravenswood street, avenue.

18 Q Was anyone present for that meeting?

19 A Yes.

:21AM

20 Q Who else?

21 A Myself, Lon Monk, and the Governor.

22 Q Why was Lon Monk present for the meeting?

23 A I asked him to arrange the meeting. At that
24 point, he was a consultant, a lobbyist for us, and I
25 wanted to have a face-to-face with the Governor to

Johnston - direct by Niewoehner

2143

1 explain to him the state of the industry.

2 Q How did you first get to know Lon Monk?

3 A I'd met him, I don't know exactly when and where,
4 but over time when he was the Chief of Staff for the
5 Governor.

6 Q And about when did you hire Monk as a lobbyist?

7 A It was, I believe, in the spring of 2007.

8 Q Why did you hire Monk?

9 A I hired Lon because, ah, I knew he had a good
10 relationship with the Governor and many other
11 legislators, I got along with him, and so our
12 competitors wouldn't hire him.

13 Q What types of things did Monk do for you?

14 A He would -- you know, he was supposed to be our
15 liaison to the Governor's office.

16 Q Now, going back to this meeting in April of 2008,
17 why did you want to meet with Defendant Blagojevich
18 at that meeting?

19 A Just to try to educate him and get him up to
20 speed on the different things that were going on in
21 the industry, so if he agreed with them, that he
22 could help champion some of our causes.

23 Q Did you talk about the 2006 law when you met with
24 Defendant Blagojevich in April of '08?

25 A Yes.

:22AM

:22AM

:22AM

:23AM

:23AM

Johnston - direct by Niewoehner

2144

1 Q And what did you talk about with respect to the
2 2006 law?

3 A I just told him that it expired, that we were
4 seeking to get it renewed. I went through our
:23AM 5 overall legislative agenda.

6 Q Did you argue in favor of getting the 2006 law
7 extended?

8 A Yes.

9 Q How did Defendant Blagojevich respond to what you
:23AM 10 said?

11 A He absorbed everything I said, took it in, asked
12 some questions, you know, was very courteous, and
13 that's it.

14 Q Did Defendant Blagojevich make a commitment
:24AM 15 either way as to whether he would support extending
16 the 2006 law?

17 A He seemed to have heard what I said, but he
18 didn't give any indications what he would do.

19 Q Did he tell you he was not going to support
:24AM 20 extending the 2006 law?

21 A No.

22 Q Was fundraising discussed at your meeting with
23 Defendant Blagojevich?

24 A Just briefly. When I was leaving, in small talk,
25 :24AM the Governor just said -- he thanked me for

Johnston - direct by Niewoehner

2145

1 supporting him in the past and hoped I continued to
2 do so in the future.

3 Q What did you understand Defendant Blagojevich to
4 mean when he said that?

:24AM

5 A He'd probably appreciate a future contribution
6 again.

7 Q Now, you testified that you made your last
8 contribution to Defendant Blagojevich in December
9 of 2007, do you recall that?

:24AM

10 A Yes.

11 Q In April of 2008, did you want to make a
12 contribution to Defendant Blagojevich at that point
13 in time?

14 A No.

:24AM

15 Q At that point had the Illinois legislature passed
16 any bills relating to the horse racing industry that
17 Defendant Blagojevich could sign?

18 A No.

:25AM

19 Q Did you feel any pressure to make a contribution
20 at that particular point in time?

21 A No.

22 Q Did you actually agree to make a contribution in
23 your April meeting with Defendant Blagojevich?

24 A No.

:25AM

25 Q Did you make -- did you, in fact, make any

Johnston - direct by Niewoehner

2146

1 contribution to Defendant Blagojevich after your
2 2008 meeting?

3 A No.

4 Q I'm going to turn your attention now to the
:25AM summer or early fall of 2008.

6 Did you have a conversation with Defendant
7 Blagojevich in that time frame?

8 A I did.

9 Q Was that in person or over the phone?

:25AM 10 A Over the phone.

11 Q Did you call him or did he call you?

12 A He called me.

13 Q What did you discuss in that call?

14 A I believe the call was in around mid-August. He
:25AM 15 called me in my office. It was primarily small
16 talk. And the only thing I remember is basically he
17 was inquiring whether or not I was going to attend
18 the DuQuoin State Fair in a couple of weeks which
19 was at the end of August.

20 Q After you spoke with Defendant Blagojevich, did
21 you meet with Lon Monk again?

22 A Yes.

23 Q And did you meet with him more than one time?

24 A Yes.

25 Q And about -- focusing on the October, November

Johnston - direct by Niewoehner

2147

1 time frame, did you meet with Monk in that time
2 frame?

3 A Yes.

4 Q Did Monk ask you in that time frame to do any
:26AM fundraising for Defendant Blagojevich?

6 A Yes.

7 Q And prior to -- and prior to those conversations
8 with Monk, had you made any contributions in 2008?

9 A No.

:27AM 10 Q When Monk -- who initiated the idea of making a
11 contribution, did you or did he?

12 A I never brought it up, so it was always brought
13 up by Lon.

14 Q When Monk raised that topic, did you, in fact,
:27AM 15 want to make a contribution to Defendant Blagojevich
16 in the October, November 2008 time frame?

17 A Not necessarily.

18 Q Did you agree to make a contribution to Monk?

19 A No.

:27AM 20 Q Did you ever tell Monk you were not going to make
21 a contribution?

22 A No.

23 Q How did you generally handle Monk's requests for
24 contributions?

:27AM 25 A I would just generally try to deflect the

Johnston - direct by Niewoehner

2148

1 conversation to another subject matter and never
2 really brought it up.

3 Q what types of things did you talk about in terms
4 of fundraising when Monk initiated these
5 conversations?

6 A what type of what?

7 Q what types of things might you say to Monk when
8 you tried to deflect the conversation?

9 A I would just try to just literally change the
10 subject matter.

11 Q Did you talk about an individual named David
12 Gupta?

13 A I did.

14 Q Who is David Gupta?

15 A David Gupta is a person I know who was going to
16 conduct a fundraiser for Governor Blagojevich some
17 time in the fall of 2008.

18 Q And did you talk with Monk about Gupta when you
19 were discussing fundraising?

20 A I did.

21 Q what types of things did you say about Gupta?

22 A I said that David Gupta had called me up, he'd
23 mentioned he was going to have a fundraising event
24 for the Governor, that I would probably attend.

25 Q Did you suggest you might do any fundraising in

:27AM

:28AM

:28AM

:28AM

:28AM

Johnston - direct by Niewoehner

2149

1 association with Gupta's event?

2 A Yeah, I suggested that if I went I would
3 probably, you know, contribute to the event.

4 Q Why were you talking about David Gupta event's
:28AM 5 with Monk?

6 A Because I knew it was going to be a future event
7 and that allowed me to put off the conversation
8 easily.

9 Q Was there a reason that you did not want to tell
:29AM 10 Monk that you weren't going to make a contribution?

11 A Yes, just because I know that fundraising was
12 important to the Governor and to Lon sometimes and
13 that I didn't necessarily want to always tell them
14 no.

15 Q All right. Did the Illinois legislature actually
16 meet in November 2008?

17 A They did.

18 Q And did you have an interest in any legislation
19 that was before the Illinois legislature in November
20 of 2008?

21 A Yes.

22 Q And what legislation was that?

23 A It was the extension of the bill that expired in
24 May of 2008.

25 Q Did you try to do anything to help that

Johnston - direct by Niewoehner

2150

1 legislation?

2 A Yes.

3 Q what did you do?

4 A I spent the two-week session, I spent most of
:29AM
5 that time in Springfield.

6 Q Did the Illinois legislature end up passing a
7 bill that extended the 2006 law?

8 A Yes.

9 Q what did that bill do?

10 A It extended the expired bill for an additional
11 3 years.

12 Q Do you understand if I refer to that bill as the
13 racetrack bill?

14 A Yes.

15 Q what entities were to receive money under the
16 racetrack bill?

17 A The same entities, the 2006 was earmarked for the
18 horsemen and their racetracks.

19 Q Were you in favor of the racetrack bill?

:30AM
20 A Yes.

21 Q why was that?

22 A Because it provided much needed revenues for all
23 the sectors of the industry.

24 Q And did you have an idea in November of 2008
25 about how much your racetracks might benefit if the

1 bill were extended?

2 A Yes, it was approximately 1 and a half million
3 dollars a year per track, approximately 4500 a day
4 or 9,000 per day for both of our facilities.

:31AM

5 Q So it would be \$4,500 for each individual track,
6 so a total of 9,000 a day?

7 A Correct.

8 MR. NIEWOEHNER: Your Honor, could I publish
9 what was previously been admitted as Government
10 Exhibit 2008 Racetrack Legislative History?

:31AM

11 THE COURT: You may.

12 MR. NIEWOEHNER: May I also approach?

13 THE COURT: You may do that, as well.

14 (Exhibit published to the jury.)

:31AM

15 BY MR. NIEWOEHNER:

16 Q And looking at Government Exhibit 2008 Racetrack
17 Legislative History, could you turn to the fifth
18 page of the exhibit, the very last page.

:32AM

19 And if you focus at the last couple of lines,
20 it shows -- I'm looking at the entry that says
21 November 20th, 2008, do you see that?

22 A I do.

23 Q What happened on that date?

24 A The legislation passed both the House and the
25 Senate by an overwhelming supermajority vote.

:32AM

1 Q And did the racetrack bill become law at that
2 point?

3 A No.

4 Q what had to happen before it became law?

:32AM

5 A There were some procedural matters, but
6 eventually it would be sent to the Governor and he'd
7 have to either sign it, veto it, or do nothing, it
8 would become law within 60 days.

:32AM

9 Q And based on the legislative history, what day
10 was the bill sent to the Governor?

11 A It was sent to the Governor on four days after
12 its passage on November 24th.

:33AM

13 Q Now, after that procedural step occurred on
14 November 24th, was there anything preventing
15 Defendant Blagojevich from signing that bill into
16 law?

17 A No.

18 Q When did you want Defendant Blagojevich to
19 actually sign the bill?

:33AM

20 A As soon as possible.

21 Q Why did you want him to sign it as soon as
22 possible?

23 A So that it would become effective and that part
24 of the process would be over.

:33AM

25 Q Now, you earlier mentioned that the 2006 law had

1 been challenged in lawsuits, do you recall that?

2 A Yes.

3 Q In November of 2008, did you anticipate that the
4 casinos might file similar lawsuits relating to the
5 racetrack?

:33AM 6 A Yes.

7 Q And if lawsuits were filed by the casinos in
8 November of 2008, did you expect that even though
9 the law were passed, you were going to receive money
10 right away?

11 A We didn't expect to receive money.

12 Q What did you expect might happen if casinos filed
13 a lawsuit after the racetrack bill were passed?

14 A That it would go into an escrow account.

:34AM 15 Q So the money would be set aside for you, is that
16 right?

17 A Not just for me but for everybody, yes.

18 Q Sorry.

:34AM 19 So even though you weren't necessarily going
20 to collect the money right away in November of 2008,
21 did you still want the bill to be signed right away?

22 A Yes.

23 Q Why was that?

24 A Basically, as I said, just to get the matter
25 resolved, the issue behind us.

Johnston - direct by Niewoehner

2154

1 Q And, ultimately, did you hope to get money from
2 the racetrack bill even if it were delayed?

3 A Yes.

4 Q Now, what was the term that the racetrack bill
:34AM extended the 2006 law? How many years?

6 A The extension was from November of 2008 through
7 November 2001, a 3-year extension.

8 Q Were there things in the racetrack bill that
9 meant that the tax might not actually be collected
:35AM for the entire 3 years?

11 A Yes, there were some provisions in the law that
12 would preempt it from going, if they occurred, that
13 would preempt it from going its full 3 years.

14 Q And if the bill did not go the entire 3 years, if
15 the bill didn't get signed right away, would you
16 lose days where the tax would be collected?

17 A Yes.

18 Q And in terms of this escrow fund you talked
19 about, would that start before the bill became law
20 or would it start after the bill became law?
:35AM

21 A After the bill became law.

22 Q Now, from your perspective, was there any
23 significant difference between the law that passed
24 in 2006 and the racetrack bill in terms of the
25 casinos' tax?

:35AM

1 A I'm sorry, could you say that again?

2 Q From your perspective, was there any difference,
3 was there any real difference between the 2006 law
4 and the racetrack bill in terms of how the casinos'
5 tax was going to work?

6 A No, it was virtually very similar, if not
7 identical.

8 MR. NIEWOEHN: Your Honor, may I publish
9 what's been previously admitted as Government
10 Exhibit 2006 Legislative History?

11 THE COURT: You may.

12 (Exhibit published to the jury.)

13 BY MR. NIEWOEHN:

14 Q And, again, Mr. Johnston, if you could just focus
15 on the very last page of the -- excuse me, the
16 second to the last page of the exhibit -- no, it is
17 the last page. Excuse me.

18 And in 2006, how long did it take Defendant
19 Blagojevich to sign the bill from when he received
20 it from the Illinois legislature?

21 A One day.

22 Q Now, as part of your lobbying, did you follow
23 public statements made by different Illinois
24 governmental leaders about the racetrack bill?

25 A I don't know which one you are referring to, but,

Johnston - direct by Niewoehner

2156

1 I mean, I read the papers.

2 Q Well, in November of 2008 time frame, you were
3 following the progress of the racetrack bill, is
4 that right?

:37AM

5 A Yes.

6 Q And as part of your lobbying, were you trying to
7 pay attention to any public statement that was made
8 by any Illinois leader who might have an --

9 A Sure. Absolutely.

:37AM

10 Q Did Defendant Blagojevich make any public
11 statement in that time frame that made you think he
12 wasn't going to sign the racetrack bill?

13 A No.

14 Q As of November 2004 -- excuse me.

:37AM

15 As of November 24th of 2008, did you expect
16 that Defendant Blagojevich was, in fact, going to
17 sign the racetrack?

18 A Yes.

:37AM

19 Q Did you talk with Monk after the 2008 racetrack
20 bill was sent to Defendant Blagojevich for
21 signature?

22 A Yes.

23 Q Did you have more than one conversation with
24 Monk?

:38AM

25 A Yes.

Johnston - direct by Niewoehner

2157

1 Q what did you say to Monk in those conversations?
2 A Generally, if he could get the Governor to sign
3 the bill, answer any questions that he and his staff
4 may have regarding it, but, other than that, just
5 basically try to get the Governor to sign it.

:38AM

6 Q Did you talk to Monk about when you wanted the
7 bill to be signed?

8 A Yes; as soon as possible.

:38AM

9 Q And did you tell Monk about how much money your
10 racetracks might collect under the racetrack bill on
11 a daily basis?

12 A Yes.

13 Q what did you indicate to Monk?

:38AM

14 A I told him what I stated earlier, that it's
15 affecting the entities that I represented, which was
16 about \$9,000 a day.

17 Q I'm going to direct your attention to
18 December 3rd of 2008.

19 Did you go to work that day?

:38AM

20 A I did.

21 Q Where did you go to work?

22 A At my office at Maywood Park Racetrack.

23 Q Did you, at the beginning of the day, did you
24 have any plans to meet with Monk?

:39AM

25 A No.

Johnston - direct by Niewoehner

2158

1 Q Did you speak with Monk that day?

2 A I did.

3 Q And did you speak, initially, did you speak by
4 phone or in person?

:39AM

5 A By phone.

6 Q Now, have you had the opportunity to listen to
7 recordings of two phone calls that you had with Monk
8 on December 3rd?

9 A I did.

:39AM

10 Q And do you recall, focusing on the second call,
11 do you remember exactly the words that Monk used
12 when he was talking to you about in that call?

:39AM

13 A Well, he originally called to see if I was in the
14 office. It was a very brief conversation. Then he
15 called back shortly thereafter and asked two things,
16 he stated that he was coming from the Friends of
17 Blagojevich office on Ravenswood and that he also
18 asked for what I thought the quickest way to get to
19 the track was.

:40AM

20 Q And when Monk was indicating that he was leaving
21 the campaign office, was that important to you?

22 A Yes.

23 Q Why was that important?

:40AM

24 A Well, I thought the good was that he would get --
25 he would have the latest information on what the

Johnston - direct by Niewoehner

2159

1 status of the bill was, and I also thought the bad
2 was that they might--"they" meaning him and the
3 Governor--might have discussed fundraising.

4 Q And why did you think it would be bad if Monk and
:40AM the Governor had been talking about fundraising?

5 A Well, two reasons: That wasn't, you know, of
6 much interest or importance to me at that time, and
7 also that the two being mixed together was not
8 something I cared to discuss.

9 :40AM Q Did you know why Monk wanted exactly to talk with
10 you when he spoke with you on the phone?

11 A No.

12 Q From your perspective, was there any reason you
13 simply couldn't talk to Monk on the phone to discuss
14 whatever it was he wanted to talk about?

15 :41AM A No, we could've spoken on the phone.

16 Q Did Monk come to see you that day at the Maywood
17 Park track?

18 A He did.

19 :41AM Q Who met with him?

20 A Myself, my father was in the office, and just
21 Lon.

22 Q Why was your father at this meeting?

23 A When Lon called and said he was on his way over
24 from the campaign office, I started thinking that
25 :41AM

Johnston - direct by Niewoehner

2160

:42AM
1 maybe the contribution subject might come up and
2 Billy is kind of an ornery SOB, and I knew that, if
3 he was in the conference room, that it would be less
4 likely that Lon would bring up contributions because
5 in the past Billy had rattled Lon's cage about
6 contributions once before.

7 Q Is Billy your father?

8 A Yes.

:42AM
9 Q Did you think Monk would be comfortable talking
10 about fundraising in your father's presence?

11 A I thought he'd be uncomfortable talking about it.

12 Q Now, prior to Monk's arrival at your office, did
13 you still think Defendant Blagojevich was going to
14 ultimately sign the racetrack?

:42AM
15 A Yes.

16 Q Where in the office did you meet with Monk?

17 A In the conference room.

18 Q What did you discuss with Monk while your father
19 was present?

:42AM
20 A We spoke briefly some small chitchat. Lon told
21 me about how he was going to see his ailing father.
22 We talked about Thanksgiving. Spoke about the
23 legislation, briefly, and then we concluded that,
24 you know, he knows the subject matter very well,
25 we've gone over it many, many times with him, and

1 that was about it.

2 Q Did you talk about the status of the racetrack
3 bill?

4 A Yes.

:43AM

5 Q And at that point what was the status?

6 A That it was still sitting, you know, still
7 waiting the Governor's signature.

8 Q At some point did Monk leave the conference room?

9 A He did.

:43AM

10 Q What happened when he left the conference room?

11 A He asked if I could walk him out to the parking
12 lot.

13 Q And from what Monk said, did you understand he
14 wanted your father to accompany you?

:43AM

15 A No, it appeared to me that he wanted to be alone
16 with me.

17 Q What did your father do at that point?

18 A He walked to his office.

19 Q Where did you and Monk go?

:43AM

20 A We went down the stairs, you know, heading
21 towards the receptionist area where the exit was.

22 Q Was anyone -- did you stop at any point?

23 A Well, he stopped in the vestibule at the bottom
24 of the stairs where nobody was around and he turned
25 to me and he said, "one more thing, I spoke to the

:44AM

Johnston - direct by Niewoehner

2162

1 Governor and he's concerned that if he signs the
2 racing legislation, that you might not be
3 forthcoming with a contribution."

4 Q Now, are those his exact words that Monk used?

:44AM 5 A I don't know if they're identical, but, you know,
6 to that effect.

7 Q How did you respond?

8 A I responded negatively, animated, agitated. I
9 said, "I thought that's what the Governor might be
10 thinking." I said, "your suggestion of contribution
11 at this time was inappropriate."

12 Q How did Monk react?

13 A At that point he turned to me and he said -- kind
14 of rubbed his hands together and says, "okay,
15 different subject matter: I really need you to get
16 a contribution in by the end of the year."

17 Q How did you react to that statement?

18 A At that point I realized I was in an
19 uncomfortable situation. I wanted to deflect the
20 question in the conversation and get him out the
21 door and basically told him that I supported the
22 Governor in the past, I was leaving town in a couple
23 of weeks for a family vacation, and I just shut the
24 conversation down.

25 Q I want to go back to the first thing that Lon

:45AM

:45AM

Johnston - direct by Niewoehner

2163

1 Monk said to you.

2 when he indicated that he spoke with the
3 Governor, what did you understand him to mean?

4 A He's telling me that he spoke to the Governor and
5 I assumed that it was, you know, from where he was
6 coming from, earlier in the day.

7 Q And where was Monk coming from earlier in the
8 day?

9 A The Friends of Blagojevich office.

:46AM 10 Q Was it important to you that Monk had indicated
11 he had just spoken with Defendant Blagojevich?

12 A Yes.

13 Q Why?

14 A Well, you know, the fate of the legislation
15 somewhat lied in the Governor's hands and that if
16 he's telling me what he told me, that that was a
17 concern of mine.

18 Q And when you say the fate of the legislation was
19 in his hands, what do you mean?

:46AM 20 A Well, I meant that ultimately it was and wasn't,
21 because it could become law without his action, but
22 I meant that by him, he could delay the process.

23 Q Who was going to decide whether to sign the bill
24 at that point?

25 A The Governor.

Johnston - direct by Niewoehner

2164

1 Q Now, when Monk went on to say words to the
2 effect, that he's concerned that if he signs the
3 bill or the legislation a contribution won't be
4 forthcoming, what did you understand Monk to mean?

:47AM

5 A I took him to mean that they were looking for a
6 contribution and that they were possibly linking the
7 two together.

8 Q From what Monk said, what did you understand
9 Defendant Blagojevich wanted to happen first?

:47AM

10 A A contribution.

11 Q When did Monk indicate Defendant Blagojevich
12 wanted the contribution by?

13 A By the end of the year.

:47AM

14 Q What did you think was going to happen if you
15 didn't make a contribution?

16 A That there could be a possible delay in the
17 Governor signing the bill.

18 Q And why did you think there would be a potential
19 delay?

:47AM

20 A Because I thought that they might want a
21 contribution, or an assurance of a contribution,
22 before they make a decision, or for whomever, made a
23 decision on what they were going to do.

24 Q What did you think was going to happen if you did
25 make a contribution?

:48AM

Johnston - direct by Niewoehner

2165

1 A I would -- it would be speculative, but I would
2 imagine if I'd make a contribution, they'd cash the
3 check and sign the bill.

4 Q Based on what Monk said, were you concerned that
:48AM
5 Defendant Blagojevich was going to veto the
6 racetrack bill?

7 A I wasn't concerned that he was going to veto it,
8 no.

9 Q Were you concerned he would never sign the
:48AM
10 racetrack bill?

11 A No.

12 Q What was your concern?

13 A My concern was that they just delay the process.

14 Q And why were you concerned about delaying the
:48AM
15 process?

16 A Just because we wanted to get the -- the bill
17 signed and behind us.

18 Q And at that point how much money were your tracks
19 going to receive a day once the bill got signed?

20 A Approximately \$9,000 a day.

21 Q Was there any question in your mind about what
22 Monk was communicating to you?

23 A No, not at that point.

24 Q Did you feel pressure as a result of what Monk
25 said?

:49AM

Johnston - direct by Niewoehner

2166

1 A Yes.

2 Q what did you feel pressured to do?

3 A I felt pressure -- I don't know. I knew I was
4 never going to write a check, so I didn't ultimately
5 feel pressure, but I did not like being put in an
6 uncomfortable situation like he had put me in.

7 He was supposed to be working on my behalf to
8 further the racing's interests and he wasn't doing
9 it when he's sitting there talking about
10 contributions when I wanted to be talking about
11 things that would benefit horse racing.

12 Q what did you understand Monk was pressuring you
13 to do?

14 A Write a check.

15 Q How did you feel when you heard Monk say that?

16 A I was angry.

17 Q And you said in response to Monk's statement, you
18 said something to the effect of, "I thought this was
19 what the Governor might be thinking," what did you
20 mean when you said that?

21 A That I didn't think the thought probably
22 originated from Lon, I thought it probably was
23 coming from the Governor's office, and that at that
24 point he was indeed, you know, really insistent on
25 getting the contribution in by the end of the year.

Johnston - direct by Niewoehner

2167

1 Q And did you understand that that contribution was
2 linked in some way -- that the bill was linked to
3 the contribution?

4 A I was starting to get that sense.

:50AM

5 Q Now, you also mentioned, you talked about the
6 timing of the contribution as not being appropriate,
7 do you recall that?

8 A Yes.

:51AM

9 Q what did you mean when you said that?
10 A what I meant by that was that there's never been
11 a discussion between myself and Lon, or anybody for
12 that matter, on correlating contributions to actions
13 or inactions, and I felt as though, for the first
14 time, that the two were starting to be linked by
15 their actions and words.

:51AM

16 Q So at that point you thought the contribution was
17 being linked to the bill signing?

18 A Yes.

:51AM

19 Q And why did you tell Monk that the timing would
20 be inappropriate?

21 A Because of the perception. If I gave them a
22 check, they would cash it and then probably the bill
23 would be signed in a similar time frame and it just
24 would look wrong.

:51AM

25 Q Why did you bring up that problem?

Johnston - direct by Niewoehner

2168

1 A Because I -- I didn't want it to happen. It
2 wasn't going to happen.

3 Q So at that point, did you think that Monk was
4 actually linking the signing and the contribution or
5 he was just talking about there might be a
6 perception problem?

7 A No, I think he was actually -- it was reality.
8 He was thinking it.

9 Q He was linking it?

10 A He was linking it. He just wasn't perceiving it.

11 Q Now, when Monk responded by wiping his hands and
12 saying different subjects, what did you understand
13 Monk to be saying?

14 A That he was separating the two items in his mind.

15 Q Which two things did you understand he was
16 separating?

17 A The part of the conversation that we were having
18 about contributions and then the earlier
19 conversation that day about the legislation.

20 Q Based upon what Monk said, did you actually
21 believe that the contribution and the bill signing
22 were two different matters?

23 A No.

24 Q Why not?

25 A Because just 'cause he put his hands together and

Johnston - direct by Niewoehner

2169

1 says "a different subject matter" doesn't make it
2 so, and also he furthered the conversation, he
3 didn't put an end to it.

4 Q And when you say he furthered the conversation,
:53AM 5 what do you mean?

6 A He came right back and said, after he said "two
7 different subject matters," he said I'd like you to
8 still make a contribution by the end of the year.

9 Q So were you convinced, when Monk said that they
:53AM 10 were two separate matters, that the bill signing and
11 the contribution were, in fact, two different
12 matters?

13 A I wasn't convinced at that point.

14 Q Now, you said you suggested -- or that you told
:53AM 15 Monk that you had supported Blagojevich in the past,
16 do you recall that?

17 A Yes.

18 Q What did you mean when you said that?

19 A I was just trying to throw out a little
:53AM 20 pleasantry there, and it was a fact, and trying to
21 get him just to back off.

22 Q And when you say you were trying to get him to
23 back off, what do you mean?

24 A Stop furthering the conversation on that subject
25 matter.

:54AM

Johnston - direct by Niewoehner

2170

1 Q And you also indicated that you were going on a
2 holiday with your family, do you recall that?

3 A Yes.

4 Q Were you, in fact, going on a holiday with your
:54AM family?

5 A Yes.

6 Q why did you talk about going on a holiday with
7 your family?

8 A I was just trying to, you know, create some, you
:54AM know, difficulties, present some difficulties on the
9 why, other than saying, you know, "no, go fly a
10 kite" on why I wasn't going to be coming up with a
11 contribution.

12 Q Could you have made a contribution before the end
:54AM of the year, if you wanted to?

13 A Yes.

14 Q So why were you trying -- why didn't you tell
15 Monk to go fly a kite?

16 A Because I was concerned that when somebody is
:55AM asking you for something and you say no, they might
17 react negatively. Not so much Lon, but I assumed he
18 would take that message back to the Governor's
19 office and I didn't know what would happen.

20 Q what were you afraid might happen if Monk took
21 the message back that you weren't going to make a
22
23
24
25 :55AM

Johnston - cross by S. F. Adam

2171

1 contribution?

2 A I didn't know what to think at that time other
3 than it could create a delay in the bill signing.

4 Q what did Monk do after your conversation?

:55AM

5 A I showed him the door. I never spoke to him
6 again, never wrote the contribution check.

7 Q Did you take any steps to even try to make a
8 contribution?

9 A No.

:55AM

10 Q Did anyone else from Blagojevich's campaign ask
11 you for a contribution?

12 A No.

13 Q Were you aware that Defendant Blagojevich was
14 arrested on December 9th?

:56AM

15 A Yes.

16 Q Had Defendant Blagojevich signed the racetrack
17 bill prior to December 9th?

18 A No.

:56AM

19 MR. NIEWOEHNER: No further questions, Your
20 Honor.

21 CROSS EXAMINATION

22 BY MR. S. F. ADAM:

23 Q Good morning, Mr. Johnston.

24 A Good morning.

:56AM

25 How are you, sir.

Johnston - cross by S. F. Adam

2172

1 Q My name is Sam Adam. I represent the Governor.

2 A Okay.

3 Q You said this morning that you're testifying
4 today under a grant of immunity?

:56AM

5 A That's correct.

6 Q That means that you have to tell the truth, and
7 if you don't tell the truth you'd be prosecuted, do
8 you understand that?

9 A Yes.

:57AM

10 Q But you have told the truth, haven't you?

11 A I have.

12 Q Now, you don't fear incrimination by your
13 testimony on anything, do you?

14 MR. NIEWOEHNER: Objection, Your Honor.

:57AM

15 THE COURT: The objection is sustained.

16 BY MR. S. F. ADAM:

17 Q Is there any crime that you know that you have
18 committed with respect to this horse racing
19 contribution issue that you have been engaged in?

:57AM

20 A I believe I haven't committed --

21 MR. NIEWOEHNER: Objection.

22 MR. S. F. ADAM: What is it, Your Honor?

23 THE COURT: I will let his answer stand.

24 BY MR. S. F. ADAM:

:57AM

25 Q Now, Mr. Johnston, you are an officer in the

Johnston - cross by S. F. Adam

2173

1 Balmoral Race Club and the Maywood Park Trotting
2 Association, is that right?

3 A Yes.

4 Q And your family and you run the Racing
:58AM 5 Association of Illinois which controls the money
6 with respect to the racing business that you
7 control, is that right?

8 A Yes.

9 Q Now, you yourself, in addition to being a
:58AM 10 racetrack owner, you yourself are a lobbyist, aren't
11 you?

12 A I'm a registered lobbyist, yes.

13 Q And besides Lon Monk, you and your family have
14 used other lobbyists, haven't you?

15 A Yes.

16 Q Now, as I understand your testimony here, you met
17 the Governor one time in Chicago in May around 2002,
18 is that right?

19 A Yes.

:58AM 20 Q That was the first time you ever met him?

21 A Yes.

22 Q And when you met him, you talked about racing in
23 general and racetracks, and so forth, didn't you?

24 A Yes.

:59AM 25 Q And you're very pleased to talk about racing,

Johnston - cross by S. F. Adam

2174

1 aren't you?

2 A Yes.

3 Q And it's your business and you're proud of your
4 business, aren't you?

:59AM

5 A I love it.

6 Q Love it.

7 And whenever you get a chance, you take the
8 opportunity to educate people about racing, don't
9 you?

:59AM

10 A Yes.

11 Q And you like to do that?

12 A Yes.

13 Q And you did that with the Governor in May
14 of 2002, didn't you?

:59AM

15 A Yes.

16 Q And at all times while you were talking to him,
17 he was friendly to you?

18 A Yes.

19 Q You were friendly to him?

:59AM

20 A Yes.

21 Q You, in fact, have described that meeting as the
22 Governor being affable. That's a good word for it,
23 wasn't it?

24 A That's the word I used, yes.

:59AM

25 Q And it fit appropriately, didn't it?

Johnston - cross by S. F. Adam

2175

1 A Yes.

2 Q Now, when you talked to the Governor at that time
3 about horse racing, he seemed to be interested in
4 it, to a certain degree, didn't he?

:00AM

5 A Yes.

6 Q And after that, you saw the Governor at various
7 places such as the East Bank Club?

8 A I don't recall that event, but I saw him at
9 several places over the years, yes.

:00AM

10 Q Hotel Alegro?

11 A Yes.

12 Q That's where Chris Kelly made some kind of a
13 speech there, didn't he?

:00AM

14 A That might have been -- actually, I do remember
15 going to the East Bank Club. He was at the East
16 Bank Club, that speech.

17 Q You saw the Governor?

18 A Yes, to answer your question.

:00AM

19 Q And you saw the Governor at downstate racetrack
20 or state fair?

21 A Yes.

22 Q What was that? DuQuoin?

23 A DuQuoin.

24 Q Talked to him, generally, about racing?

:00AM

25 A Yes.

Johnston - cross by S. F. Adam

2176

1 Q Never talked to you about campaign contributions
2 at any of those meetings, did he?

3 A No, he did not.

4 Q First time you ever talked to the Governor at all
:01AM 5 was when you asked for a meeting, at all about the
6 campaign, was when you asked for a meeting in 2006,
7 is that right?

8 A I'm not --

9 Q Let me strike that question.

:01AM 10 Did you see the Governor at the Friends of
11 Blagojevich campaign headquarters in 2006 with Chris
12 Kelly?

13 A I can't recall in 2006.

14 Q Let me ask you this question: You don't recall
:01AM 15 if you did or you didn't?

16 A Not in 2006. I don't recall, sorry.

17 Q Okay. Associates of the Governor, such as Chris
18 Kelly, which you met, they never related the
19 contributions that you had made to the Governor's
20 campaign for favorable consideration, did they?

21 MR. NIEWOEHNER: Objection.

22 THE COURT: Sustained.

23 BY MR. S. F. ADAM:

24 Q Well, let me ask you this, do you recall being
25 interviewed by FBI Special Agent Daniel Cain,

Johnston - cross by S. F. Adam

2177

1 Special Agent Ginger Miller on the 5th of January
2 2009? Do you remember that?

3 A Not specifically, but I've met them both.

4 Q You know Agent Cain, don't you?

:02AM

5 A I do.

6 Q You know Special Agent Ginger Miller?

7 A Yes.

8 MR. NIEWOEHNER: Your Honor, we object to
9 this line.

:02AM

10 THE COURT: I don't know where you're going
11 with this.

12 MR. S. F. ADAM: I'm going to ask him --

13 THE COURT: what somebody said to him?

14 MR. S. F. ADAM: Yes.

:02AM

15 THE COURT: No.

16 MR. S. F. ADAM: Very well, Judge.

17 BY MR. S. F. ADAM:

18 Q In your previous meetings with Kelly, you said
19 that developed into a social friendship, is that
20 right?

21 A Yes.

22 Q Kelly seemed especially interested in horse
23 racing, didn't he?

24 MR. NIEWOEHNER: Objection; relevance.

:03AM

25 THE COURT: Sustained.

Johnston - cross by S. F. Adam

2178

1 BY MR. S. F. ADAM:

2 Q what did Kelly seem interested in to you?

3 MR. NIEWOEHNER: Objection.

4 THE COURT: The objection is sustained.

:03AM

5 BY MR. S. F. ADAM:

6 Q When you saw Kelly on at least one occasion,
7 Kelly talked to your father, didn't he?

8 MR. NIEWOEHNER: Objection.

9 THE COURT: The objection is sustained.

:03AM

10 BY MR. S. F. ADAM:

11 Q Do you recall a conversation --

12 MR. NIEWOEHNER: (Standing up.)

13 THE COURT: You know, if this witness has
14 something --

:03AM

15 MR. S. F. ADAM: What, Your Honor?

16 THE COURT: If this witness has something,
17 some testimony that you believe might be useful to
18 you, then you can call him in your case.

19 MR. S. F. ADAM: Very well, Your Honor.

:04AM

20 BY MR. S. F. ADAM:

21 Q Were you present when your father talked to Kelly
22 about a campaign contribution?

23 THE COURT: I don't think you got my point.

24 MR. S. F. ADAM: I don't think I did, either.

:04AM

25 THE COURT: The point is, if you want to try

Johnston - cross by S. F. Adam

2179

1 to bring this stuff out, you're going to have to do
2 it in your case, not in their case, and then you can
3 make your arguments as to why it's relevant.

4 MR. S. F. ADAM: Thank you, Your Honor.

:04AM

5 BY MR. S. F. ADAM:

6 Q Your father is a very frank and outspoken man,
7 isn't he?

8 MR. NIEWOEHNER: Objection.

:04AM

9 THE COURT: The objection is sustained. I
10 don't see the relevance of this.

11 BY MR. S. F. ADAM:

12 Q Well, you said he was an ornery SOB, didn't you?

13 A Don't tell him that, but --

:04AM

14 Q No. Some of us have been called worse than that
15 by our sons.

16 Kelly became you and your family's main point
17 of contact with the Governor, did he not?

18 A Yes.

:05AM

19 Q In your social relationship with Kelly, it
20 extended to Kelly and his wife and you and your wife
21 going to different places, didn't it?

22 MR. NIEWOEHNER: Objection.

23 THE COURT: The objection is sustained.

24 BY MR. S. F. ADAM:

:05AM

25 Q Now, there came a time when you traveled to New

Johnston - cross by S. F. Adam

2180

1 York with Kelly or saw Kelly there in Yankee
2 Stadium?

3 MR. NIEWOEHNER: Objection.

4 THE COURT: You know, is this all you got,
5 the rest of this stuff about what other people said?
:05AM

6 MR. S. F. ADAM: No, Your Honor. That's not
7 all I have, no.

8 THE COURT: Well, then, why don't you go on
9 to what --
:05AM

10 MR. S. F. ADAM: Well, this is a meeting the
11 Governor brought up.
:06AM

12 THE COURT: I think that your oblique
13 approach to this is going to raise issues that you
14 can only raise in your case. Why don't you -- no,
15 as a matter of fact, I think I know where you're
16 going with that, too, and that is going to be part
17 of your case, not part of the examination of this
18 witness --
:06AM

19 MR. S. F. ADAM: Very well, Your Honor.

20 THE COURT: -- in their case. You can recall
21 him.
:06AM

22 BY S. F. ADAM:

23 Q When you go to a fundraiser, any fundraiser, you
24 always leave some contribution, if you can, don't
25 you?
:06AM

Johnston - cross by S. F. Adam

2181

1 MR. NIEWOEHNER: Objection.

2 THE COURT: That one is overruled.

3 BY THE WITNESS:

4 A I think if you attend the fundraiser, it would be
:06AM unprofessional and in poor taste not to contribute
5 towards --

6 BY MR. S. F. ADAM:

7 Q And you described --

8 I'm sorry. I didn't mean to interrupt you.

9 :06AM A -- towards that fundraiser.

10 Q And you've described your feeling as "weird" if
11 you don't leave a check, is that correct?

12 A I thought I said unprofessional and --

13 Q So the answer is yes.

14 :07AM A And you wouldn't attend if you weren't going to
15 contribute.

16 Q When you were discussing your contribution with
17 Kelly, you did not discuss the amount that you would
18 give, did you?

19 :07AM MR. NIEWOEHNER: Objection.

20 THE COURT: Sustained.

21 BY MR. S. F. ADAM:

22 Q Did Kelly ever ask you to increase the amount of
23 your contribution?

24 :07AM MR. NIEWOEHNER: Objection.

Johnston - cross by S. F. Adam

2182

1 THE COURT: The objection is sustained.

2 BY MR. S. F. ADAM:

3 Q Now, House bill 1918 gave subsidies to the
4 casinos in the year 2006, is that right?

:08AM

5 A Well, it was a tax on their revenues to the
6 racetracks and the horsemen in Illinois.

7 Q Did the racetracks that you had any control over,
8 or any others for that matter, perform any work to
9 receive that subsidy?

:08AM

10 MR. NIEWOEHNER: Objection.

11 THE COURT: The objection is sustained.

12 BY MR. S. F. ADAM:

13 Q Did you lobby for that passage of House bill 1918
14 in 2006?

:08AM

15 A Yes.

16 Q Did you discuss with every or nearly every
17 legislative member individually with respect to
18 House bill 1918?

19 MR. NIEWOEHNER: Objection.

:08AM

20 THE COURT: The objection is sustained.

21 BY MR. S. F. ADAM:

22 Q Now, House bill 4570 renewed the subsidy or --
23 yeah, subsidy in 2008, didn't it?

24 MR. NIEWOEHNER: Objection; Misstates the
25 testimony.

:09AM

Johnston - cross by S. F. Adam

2183

1 THE COURT: why don't you ask a non-leading
2 question for this one.

3 MR. S. F. ADAM: A non-leading question, Your
4 Honor?

:09AM

5 THE COURT: Yeah.

6 BY MR. S. F. ADAM:

7 Q Do you know what bill supplant or extend House
8 bill 1918?

:09AM

9 A I'm not tracking your question, but it was House
10 bill 4758 which is a 3-year extension which was
11 passed in November of 2008, I think you were trying
12 to --

:10AM

13 Q All right. Who is the main sponsor of that bill
14 in the legislature?

15 A I don't recall.

16 Q Was it Senator Molaro?

17 A I don't recall. I know he was the sponsor of the
18 original 1918 bill from two years prior, but I don't
19 recall who was the 4758.

:10AM

20 Q There were other groups besides your own, such as
21 Arlington Park, Hawthorn Race Course and Fairmont
22 Park and the Harness Horsemen who were also
23 sponsoring or in favor of that bill, is that
24 correct?

:10AM

25 A Among others.

Johnston - cross by S. F. Adam

2184

1 Q Yeah. And at the same time that this was going
2 on, the casinos you said were fighting, I'm talking
3 about legally fighting the previous bill?

4 A Yes.

:10AM

5 Q It was all in court at the same time, wasn't it?

6 A Yes.

7 Q Now, you used the term -- you have used the term
8 "full-card simulcasting," do you know that term?

9 A I do.

:11AM

10 Q What does that mean?

11 A That means that if you go to an off-track betting
12 parlor or a racetrack in Illinois, a full-card
13 simulcasting is referred to as the races that you
14 can watch being conducted in other states. For
15 example, Churchill Downs in Louisville, Kentucky you
16 can watch that race and make wager on it, that is
17 referred to not as an in-state race but a full-card
18 simulcast race.

:11AM

19 Q So when you see the signs off-track betting, that
20 is what that means?

21 A Yes.

22 Q Do you have that in your racetrack?

23 A Well, those are actually facilities that are off
24 cite in other areas.

:11AM

25 Q Thank you.

Johnston - cross by S. F. Adam

2185

1 Now, your horse racing industry, they lobby
2 in Springfield every May since the casino
3 legislation was passed?

4 A Yes.

:12AM

5 MR. NIEWOEHNER: Objection.

6 THE COURT: The answer may stand.

7 BY MR. S. F. ADAM:

8 Q Now, you said you hired Lon Monk as a lobbyist
9 for you for the racetracks?

:12AM

10 A I did say.

11 Q And if I understand your testimony, you hired him
12 before the casinos could hire him, is that right?

13 A Well, I don't know if they were or weren't, but
14 that was part of the consideration that I
15 contemplated.

:12AM

16 Q And in one of your interviews to the FBI, did you
17 tell the FBI that you were afraid that the casinos
18 would get Monk before you did?

:13AM

19 A I don't know if I would have used the word
20 "afraid," but that was a consideration.

21 Q And you wanted Monk to lobby the Illinois
22 legislature for you, is that right?

23 A Not necessarily.

:13AM

24 Q Now, on April 4th, 2008, you and Monk met the
25 Governor at his campaign headquarters, Friends of

Johnston - cross by S. F. Adam

2186

1 Blagojevich, and you spent about an hour with him,
2 right?

3 A Yes.

4 Q And, once again, you gave the Governor a talk
:13AM about the racing industry, right?

5 A Yes.

6 Q He seemed interested?

7 A He did.

8 Q You told the FBI that there was no quid pro quo
:14AM for that meeting, did you not?

9 MR. NIEWOEHNER: Objection.

10 THE COURT: The objection is sustained.

11 BY MR. S. F. ADAM:

12 Q Did you use the words "quid pro quo"?

:14AM MR. NIEWOEHNER: Objection.

13 THE COURT: The objection is sustained.

14 BY MR. S. F. ADAM:

15 Q while you were talking to the Governor, you also
16 talked to him about the casino revenue and their
17 payments to the racetrack, did you not, at that same
18 April meeting?

19 A I don't recall, but I wouldn't be surprised that
20 the general terms and conditions of the bill were
21 discussed.

22 :14AM Q And the Governor listened to you as you were

Johnston - cross by S. F. Adam

2187

1 talking to him, didn't he?

2 A Absolutely.

3 Q And what you wanted was support for the continued
4 revenue sharing, is that right?

:15AM

5 A I wanted him to understand the elements of our
6 industry, that bill, other issues, and to educate
7 him and hopefully get him to gravitate to champion
8 some of our causes.

:15AM

9 Q And the Governor promised nothing, isn't that
10 correct?

11 A That's correct.

12 Q When you walked out, this was what the Governor
13 said, did he not, "you supported me in the past and
14 I hope you will continue to do so"?

:15AM

15 A Something along those lines; very similar.

16 Q That's what he said, isn't it?

17 A Yes.

18 Q There never was any follow-up by the Governor
19 calling you and asking you to give him a
20 contribution or anything like that, was there?

:16AM

21 A No, there was not.

22 Q Now, in May, which he is about a month after that
23 happened, or in June of 2008, Monk arranged for Bill
24 Quinlan to sit down and go through every page of the
25 bill, isn't that correct, sir?

:16AM

Johnston - cross by S. F. Adam

2188

1 MR. NIEWOEHNER: Objection.

2 THE COURT: The objection is sustained.

3 BY MR. S. F. ADAM:

4 Q Do you know Bill Quinlan?

:16AM

5 A I do.

6 Q Did you know that in the year 2008 he was the
7 Governor's legal counsel?

8 A Yes.

:16AM

9 Q And were you present when he went through the
10 pages of the bill with you?

11 MR. NIEWOEHNER: Objection.

12 THE COURT: The objection is sustained.

13 BY MR. S. F. ADAM:

:16AM

14 Q Now, the bill that you hoped would pass was never
15 passed in May of 2008, was it?

16 A No, it was not.

17 Q In August of 2008, you met with Monk and Monk
18 asked if the Governor had called you, did he not?

19 A Yes.

:17AM

20 Q You said no, correct?

21 A That's not correct.

22 Q That's not correct. What did you tell Monk when
23 he asked you if the Governor had called you?

24 A I said the Governor had called me.

:17AM

25 Q And what was the further conversation that you

1 had with Monk at that time?

2 MR. NIEWOEHNER: Objection.

3 THE COURT: The objection is sustained.

4 BY MR. S. F. ADAM:

:17AM

5 Q Let me just clear this up.

6 Did you tell Monk at that time that you were
7 trying to figure out what account you were going to
8 take a contribution out of but that was just what
9 you said to Monk to lead him astray?

:18AM

10 MR. NIEWOEHNER: Objection.

11 THE COURT: Overruled.

12 BY THE WITNESS:

13 A Could you state your question again, please.

14 BY MR. S. F. ADAM:

:18AM

15 Q Sure. Sure.

16 Did you tell Monk at that August meeting that
17 you had with him, that you were going to try to
18 figure out what account you wanted to take a
19 contribution out of for the Governor? Did you tell
20 him that?

:18AM

21 A No. He asked me if the Governor had called me,
22 and I -- and asked me for a contribution. And I
23 said no, he didn't call me, but he did not ask me
24 for a contribution, he asked -- it was small talk
25 and he asked me if I was going to DuQuoin later on

:18AM

Johnston - cross by S. F. Adam

2190

1 in August, and I don't know what else was said.

2 Q You don't remember anything else about that
3 conversation?

4 A No.

:19AM

5 Q Okay.

6 A Lon seemed surprised that -- he seemed surprised
7 when I told him that the Governor had not asked me
8 for a contribution.

:19AM

9 Q You said on direct examination, if I understood
10 you, that on October of 2008, you received a call
11 from a David Gupta, is that right?

12 MR. NIEWOEHNER: Objection. Misstates the
13 testimony.

14 THE COURT: Ask it in a non-leading way.

:19AM

15 THE ATTORNEY:

16 Q Did you receive a call from David Gupta?

17 A Around September of 2008.

18 Q It was September?

19 A September, October, some time in there.

:19AM

20 Q September or October. All right.

21 You did accept that call, though?

22 A Yes.

23 Q And he called you and asked you about a
24 fundraiser for the Governor, is that right?

25 MR. NIEWOEHNER: Objection.

1 THE COURT: Sustained.

2 BY MR. S. F. ADAM:

3 Q what did David Gupta say to you?

4 MR. NIEWOEHNER: Objection.

:20AM

5 THE COURT: Overruled.

6 BY THE WITNESS:

7 A He just called and said, "I'm thinking about
8 hosting a fundraiser for the Governor." I think he
9 might have given me a date, I don't recall what it
10 was, but would you attend if I did host a fundraiser
11 and I said sure.

:20AM

12 BY MR. S. F. ADAM:

13 Q Did you tell Monk about that call?

:20AM

14 A I don't know if I told Monk or Monk told me, but
15 eventually David Gupta's fundraiser came up in
16 conversation between Lon and myself.

:20AM

17 Q Was Monk concerned about that call from David
18 Gupta that you told him about?

:20AM

19 MR. NIEWOEHNER: Objection.

20 THE COURT: The objection is sustained.

21 BY MR. S. F. ADAM:

22 Q You said you became offended -- let me strike
23 that.

:21AM

24 You do become offended, do you not, when
25 somebody tries to tell you how much to contribute?

Johnston - cross by S. F. Adam

2192

1 MR. NIEWOEHNER: Objection.

2 THE COURT: Overruled.

3 BY THE WITNESS:

4 A I didn't say that today in this courtroom so far,
:21AM
5 but I am. I mean, that's something that I determine
6 that isn't really dictated to a donor on how to
7 give. You give how much you are comfortable or
8 could afford to give.

9 BY MR. S. F. ADAM:

10 Q And when Monk suggested to you the amount that
11 your contribution to Blagojevich would be, you
12 became offended with him, did you not?

13 MR. NIEWOEHNER: Objection.

14 THE COURT: The objection is sustained.

15 BY MR. S. F. ADAM:

16 Q Do you know or do you have any understanding of
17 what the ethics bill in Illinois was?

18 A If you are referring to the one from around
19 September -- could you clarify, be a little more
20 specific with your question?
:22AM

21 Q Yeah.

22 Are you aware that the ethics bill limited
23 the amount of contributions that could be given to
24 the Governor by persons who did business for the
25 State of Illinois and that it became effective in

:22AM

1 January of 2009?

2 MR. NIEWOEHNER: Objection to scope.

3 THE COURT: The objection to scope is
4 sustained.

:22AM

5 BY MR. S. F. ADAM:

6 Q Monk was always asking you for political
7 contributions, wasn't he?

8 MR. SCHAR: Objection.

9 THE COURT: Overruled.

:22AM

10 BY THE WITNESS:

11 A Yes, there was a persistent line of the
12 questioning when we got together, not all the time,
13 but it was fairly frequent.

14 BY MR. S. F. ADAM:

:23AM

15 Q Now, in November, and specifically on the 11th of
16 November 2008, you'd go to Springfield for the
17 session, did you not?

18 A In November of 2008, yes; several times.

:23AM

19 Q And you met Monk there in the capitol building,
20 in the actual Capitol, did you not?

21 A On one occasion I did, I ran into him.

22 Q I'm sorry, I didn't hear you.

23 A On one occasion, I did.

24 Q I meant in November of 2008.

:23AM

25 A Yes.

Johnston - cross by S. F. Adam

2194

1 Q Again he asked you about fundraising, didn't he?

2 A He did.

3 Q And you particularly told him you didn't want to
4 talk about it especially because you were in the
5 capitol, correct?

6 A Yes.

7 Q And you know as a lobbyist and as a law-abiding
8 citizen, it's not legal to talk about fundraising in
9 the capitol?

:23AM 10 MR. NIEWOEHNER: Objection.

11 THE COURT: The objection is sustained.

12 BY MR. S. F. ADAM:

13 Q while you were there in the capitol, you saw
14 William Quinlan, Sr., did you not?

:24AM 15 MR. NIEWOEHNER: Objection.

16 THE COURT: The objection is sustained.

17 BY MR. S. F. ADAM:

18 Q William Quinlan, Sr., is how you particularize
19 the date of November 11th, isn't it?

:24AM 20 MR. NIEWOEHNER: Objection.

21 THE COURT: The objection is sustained.

22 You know, you can recall if you want some of
23 this stuff in and it's really the better way to do
24 it.

:24AM 25 MR. SOROSKY: Very well, Your Honor.

Johnston - cross by S. F. Adam

2195

1 BY MR. S. F. ADAM:

2 Q How long -- strike that.

3 The legislature passed a bill that you hoped
4 they would pass, did it not, in November of 2008?

:24AM

5 A Yes.

6 Q what bill number was that, did you say?

7 A House bill 4758.

8 Q And for how long an extension did that extend the
9 subsidy?

:25AM

10 A 3 years.

11 Q Do you know, I think from the Governor's exhibit,
12 that that bill reached the Governor's desk on
13 November 24th?

14 A I believe that was the date, yes.

:25AM

15 Q Were you then aware that under the law the
16 Governor legally has 60 days to sign it, or veto it,
17 or not do either?

18 A Yes.

:25AM

19 Q And you told us this morning you never were
20 worried about him vetoing it, is that correct?

21 A That's what I said.

22 Q What was your understanding, then, as to what
23 would happen if he did nothing?

24 A That it would become law at the end of 60 days if
25 he didn't act on it at all.

:26AM

Johnston - cross by S. F. Adam

2196

1 Q Now, the law becomes effective either when he
2 signs it or when he does nothing 60 days it expires,
3 is that right? Is that the way you understand it?

4 A Or veto it, but yes.

:26AM

5 Q Well --

6 A Veto that out, yes.

7 Q Throw that out because I said it would become
8 effective, right?

9 A Yes.

:26AM

10 Q So the most you would have to wait to get your
11 money, absent a veto, the longest you have to wait
12 is 60 days from November 24th, right?

13 A Yes. And we weren't seeing that money because it
14 was going into a protest fund anyways.

:26AM

15 Q But that's an escrow fund that you hoped to get
16 some day, right?

17 A Yes.

:27AM

18 Q Now, on November 25th, which was a day after the
19 legislature passed the law, you had dinner with
20 Chris Kelly, did you not?

21 MR. NIEWOEHNER: Objection.

22 THE COURT: The objection is sustained.

23 BY MR. S. F. ADAM:

24 Q Did Kelly tell you at any time --

:27AM

25 THE COURT: Don't do this.

Johnston - cross by S. F. Adam

2197

1 MR. S. F. ADAM: All right, Your Honor.

2 BY MR. S. F. ADAM:

3 Q Let me ask you about your own state of mind.

4 Did you have any doubt that this bill would
5 become a law either by a signature or by the
6 expiration of 60 days?

7 A No.

8 Q Did you tell Monk after all this became a law,
9 while it was pending on the Governor's desk, quote,
10 "work your magic" or words to that effect, end of
11 quote?

12 A I don't think I used the words along those lines.

13 Q Okay. Now, as of November -- strike that.

14 As of December the 4th, only 10 days had
15 expired since the passage of the bill, right?

16 A Yes.

17 Q And you were continually asking Monk to get going
18 on it and try to get the signature, right?

19 A I mean, when I spoke to him I mentioned it, yes.

20 Q And you were getting pressure also from other
21 members of the horse racing industry because you
22 were the lead advocate of the bill, is that right?

23 A I was one of the advocates, yes.

24 Q And you were feeling pressure from the other
25 members of the racing association, weren't you?

:27AM

:28AM

:28AM

:29AM

:29AM

Johnston - cross by S. F. Adam

2198

1 A Yes.

2 Q On Thanksgiving 2008, you text Monk with one word
3 "status," is that right?

4 A I don't know. I don't recall if I --

:29AM

5 Q You don't recall?

6 A I could see myself doing something like that, I
7 don't know about on Thanksgiving day, but possibly.

8 Q On December 3rd you and your dad met Monk in
9 Maywood, right?

:29AM

10 A Yes.

11 Q And you knew that Monk did not want to talk in
12 front of your father, is that right?

13 A Yes.

:30AM

14 Q You have described Monk as being, to use your
15 words, afraid of your father, is that right?

16 A I think he was uncomfortable around him, yes.

:30AM

17 Q Your father is the kind of person that says what
18 he means. He's blunt in the way he speaks, he says
19 what he means, and he means what he says, isn't that
20 about right?

21 A Yes.

:30AM

22 Q Monk said to you, you said, words to the effect
23 that, "Rod has a concern that if he signs the bill,
24 you won't make a contribution," is that what he
25 said?

Johnston - cross by S. F. Adam

2199

1 A Could you state that again, please?

2 Q Sure.

3 when Monk and you walk out of the presence of
4 your father, you walk where? Downstairs?

:31AM

5 A Yes, sir, downstairs.

6 Q But now you're out of the presence of your
7 father, right?

8 A Yes.

:31AM

9 Q You said Monk said something to you to the effect
10 that "Rod as a concern that if he signs the bill,
11 you won't make a contribution," is that right?

12 A Words to that effect, that's what he said.

13 Q The Governor never said that to you, ever, did
14 he?

:31AM

15 A No.

16 Q And you don't know whether Monk was telling the
17 truth or he was lying to you, do you?

18 A I do not know whether he was telling me the
19 truth, no.

:31AM

20 Q But it made you angry when he said it, didn't it?

21 A Yes.

22 Q You said this morning that you were personally
23 concerned about making a contribution to the
24 Governor around the time or near the time that he
25 signed the bill, if he had signed it, right?

:32AM

Johnston - cross by S. F. Adam

2200

1 A Yes.

2 Q why was that a concern?

3 A It was a concern of perception.

4 Q Could you be a little more expletive about --

:32AM

5 A Well, state your question again, then, please.

6 Q Sure.

7 when you say that you were concerned about
8 making a contribution at or near the time the
9 Governor signed it, had he signed it, and now you
10 say that concern was perception, what do you mean by
11 that?

:32AM

12 A That it was perception -- my concern was that
13 there could be -- that the two items were being
14 linked by the mere fact we were having a
15 conversation about the two subject matters at the
16 same time. And though I never intended to give a
17 contribution, that if I did oblige Lon's request and
18 the check would have been deposited, the bill would
19 have been signed, we report our contributions, as
20 you can see the bill would be obvious that it was
21 signed, that in the eyes of the general public or
22 anyone, that there could be -- it would be so absurd
23 that I think people would dismiss it as an
24 oversight, but that it could be construed as
25 improper.

:33AM

:33AM

Johnston - cross by S. F. Adam

2201

1 Q So by "perception" you mean it just wouldn't look
2 good for him to sign a bill at the same time that
3 you're making a contribution? It wouldn't look
4 good, would it?

:33AM

5 A No, it wouldn't look good at all.

6 Q And that's how you felt at the time?

7 A Yes, I did.

8 Q You said a moment ago, you didn't intend to make
9 a contribution at that time anyway, did you?

:34AM

10 A No.

11 Yes, I did say that, that I wouldn't.

:34AM

12 Q Okay. And you meant it when you just said it,
13 didn't you? That you didn't really -- that's the
14 truth, you really didn't intend to make a
15 contribution at all in December of 2008, did you?
16 To the Governor, I'm talking about.

17 A No, that's correct.

18 Q I'm right. No, you did not intend to?

19 A No, I did not.

:34AM

20 Q All right. Your relationship with the Governor
21 had always been friendly and cordial, had it not?

22 A Yes.

23 Q Did you at any time -- did you at any time call
24 the Governor and say, "Governor, are you going to
25 sign this or not"?

:34AM

Johnston - cross by S. F. Adam

2202

1 A No, I did not.

2 Q You could've easily if you wanted to, couldn't
3 you?

4 A I probably would have gotten through to him, but
:35AM
5 I didn't --

6 Q You knew him well enough to do that, didn't you?

7 A Yes.

8 Q You didn't need Monk to talk to the Governor, did
9 you, if you wanted to talk to him?

:35AM
10 A If I wanted to talk to him, I probably could have
11 gotten him on the line, but the channel I used was
12 Mr. Monk.

13 Q Now, had the bill been signed and had you started
14 getting your money, it would've been 3 years, is
:35AM
15 that correct? For 3 years?

16 A Yes, for 3 years.

17 Q Starting with the day the law becomes effective?

18 A Yes.

:35AM
19 Q Not the day the legislature passes, but on the
20 day it becomes effective for 3 years from that date
21 on?

22 A Yes.

23 Q And there's 365 days a year, right?

24 A Yes.

:35AM
25 Q It's 9,000 a day, right?

Johnston - cross by S. F. Adam

2203

1 A Yes.

2 Q Now, I'm not a good mathematician, but I figure
3 that as \$255,000 per year, correct?

4 A No, it's actually about a million-five per track,
5 per year.

6 Q All right. Now, in total, for all the tracks,
7 it's 83,000 a day, isn't it?

8 A I think that's depending on the fluctuation of
9 the riverboat's business because it's a percentage
10 of the revenues, yes.

11 Q And that's for 365 days?

12 A Correct.

13 Q And for 3 years, correct?

14 A Yes.

15 Q Now, my figures show 91,185,000 would be paid to
16 the racetracks, is that correct? Is that about
17 right?

18 A Not to the racetracks. 60 percent goes to
19 breeders, horsemen, farm owners, et cetera, 40
20 percent goes to the five racetracks in the state.

21 Q Okay. By the way, you were paying Monk for being
22 your lobbyist \$125,000?

23 A Yes.

24 Q And that was for the 2-year contract which would
25 be 300,000, is that right?

Johnston - cross by S. F. Adam

2204

1 A That would be correct.

2 Q Was he getting any bonus or was that it?

3 A That was it. That was enough, too.

4 Q So as I understand your testimony here, the only
5 person with respect to Governor Blagojevich that put
6 any pressure at all on you to make a contribution
7 was your own lobbyist, the man you're paying
8 \$300,000 over a 2-year period, is that correct?

9 A That's correct.

:37AM 10 Q Your lobbyist?

11 A My lobbyist.

12 Q And you said that the Governor was arrested
13 December the 9th, 2008? You said that, didn't you?

14 A No, Mr. Niewoehner did. But he was arrested
15 December 9th.

16 Q That's right. Did I say --

17 A I thought you asked --

18 Q Well, I'll ask the question. Do you know he was
19 arrested on December 9, 2008, is that right?

20 A Yes.

21 Q All right. And despite the arrest and despite
22 the attended pressures and so forth that it put on
23 him and his family, he signed the bill --

24 MR. NIEWOEHNER: Objection.

25 THE COURT: Mr. Adam, at the close of the

Johnston - cross by S. F. Adam

2205

1 case you can stand up and say those things. I don't
2 want your closing argument in the questions.

3 MR. S. F. ADAM: Yes, your Honor.

4 THE COURT: I said this more than once, I
5 don't want to say it again.

6 MR. S. F. ADAM: Yes, Your Honor.

7 BY MR. S. F. ADAM:

8 Q Did the Governor, to your knowledge, did the
9 Governor sign the bill?

10 A Yes, he did.

11 Q And did he sign that on December 15th, 2009 --
12 2008, I'm sorry?

13 A 2008, yes, he did.

14 Q And the money start coming in when?

15 A They started going into an escrow account.

16 Q Thank you.

17 MR. S. F. ADAM: May I have a moment, Your
18 Honor?

19 THE COURT: Sure.

20 (Brief pause).

21 BY MR. S. F. ADAM:

22 Q And there never was a contribution made by you to
23 the Governor in the year 2008, was there?

24 A No, there was not.

25 MR. S. F. ADAM: Thank you.

:39AM

:39AM

:39AM

:39AM

:40AM

Johnston - redirect by Niewoehner

2206

1 Thank you very much, Mr. Johnston.

2 MR. NIEWOEHN: Your Honor, two questions.

3 REDIRECT EXAMINATION

4 BY MR. NIEWOEHN:

:40AM

5 Q Mr. Johnston --

6 THE COURT: Actually, let's take a break now.

7 Fifteen minutes.

8 THE MARSHAL: All rise.

:41AM

9 (The following proceedings were had out of the
10 presence of the jury in open court:)

11 THE COURT: Fifteen minutes. I'd like to see
12 counsel at the side.

13 (Proceedings heard at sidebar on the record.)

:41AM

14 THE COURT: what, if anything, happened at
15 the Friday meeting?

16 MR. SOROSKY: we had the Friday meeting and
17 we're very close to an agreement.

18 THE COURT: All right. That's all I wanted
19 to know.

:42AM

20 (Proceedings resumed within the hearing of the
21 jury.)

22 (Recess.)

23 THE MARSHAL: All rise.

:05PM

24 (The following proceedings were had in the
25 presence of the jury in open court:)

1 THE COURT: Please be seated.

2 You can proceed.

3 MR. NIEWOEHNER: Thank you, Your Honor.

4 BY MR. NIEWOEHNER:

:05PM

5 Q Mr. Johnston, just before the break you were
6 asked a couple of questions by Mr. Adam about your
7 conversation with Lon Monk on December in your
8 offices, do you recall that?

9 A Yes.

:06PM

10 Q And in particular, you had explained that when
11 you had indicated to Monk that the timing was
12 inappropriate for a contribution, Mr. Adam asked you
13 questions about that particular phrase you used, do
14 you recall that?

:06PM

15 A Yes.

16 Q And I think you indicated that you thought it
17 would not look good if you made a contribution at
18 essentially at the same time the bill was signed, do
19 you recall that?

:06PM

20 A Yes.

21 Q Now, immediately prior to that, Monk had said
22 something along the lines of "I spoke with the
23 Governor and he was concerned that if he signed the
24 bill, you wouldn't make a contribution," do you
25 recall that?

:06PM

Johnston - redirect by Niewoehner

2208

1 A Yes.

2 Q when Monk said that, did you understand that Monk
3 was raising a concern that it just wouldn't look
4 good?

:07PM

5 A At that point it moved from me being concerned
6 about its perception to actually it becoming
7 reality, that he was actually linking the two
8 directly.

:07PM

9 Q when you say "linking the two" what do you mean?
10 A The contribution, his request for a contribution,
11 and the signing of the racetrack legislation.

:07PM

12 Q And what was your concern if the two were linked
13 directly?

14 A That, once again, it would be perceived as bad,
15 but also it would be illegal.

16 Q And putting that aside, what did you think
17 Defendant Blagojevich was going to do if you didn't
18 make a contribution?

19 A He would delay signing the bill.

:07PM

20 Q And Mr. Adam asked you a question about when
21 would the bill become law if Defendant Blagojevich
22 did nothing for 60 days, do you recall that?

23 A Yes.

:08PM

24 Q About how much would it cost your companies if
25 Defendant Blagojevich waited for 60 days to sign the

Johnston - recross by S. F. Adam

2209

1 racetrack bill?

2 A It would be 9,000 a day, times 60 days, 540,000.

3 MR. NIEWOEHNER: Thank you, Your Honor.

4 MR. S. F. ADAM: If I may have a moment, Your
5 Honor?

6 THE COURT: Sure.

7 (Brief pause).

8 RECROSS EXAMINATION

9 BY MR. S. F. ADAM:

10 Q Just one question, Mr. Johnston, if I may.

11 Just so that we're perfectly clear about
12 this. The 3-year legislation does not go into
13 effect unless the Governor signs the bill or waits
14 60 days from November 24th, is that correct?

15 A Yes.

16 Q So if he waited the full 60 days, which would
17 bring us to approximately January 24th, at that
18 point the 3-year period would start, is that right?

19 A Yes.

20 Q Thank you.

21 MR. S. F. ADAM: No further questions.

22 MR. NIEWOEHNER: No further questions, Your
23 Honor.

24 THE COURT: You may step down.

25 (Witness excused.)

D. Feinstein - direct by Schar

2210

1 THE COURT: Next witness.

2 MR. SCHAR: The government calls Dr. Donald
3 Feinstein.

4 (Brief pause).

:10PM

5 THE COURT: Over here.

6 Face me and raise your right hand.

7 (witness duly sworn.)

8 THE COURT: Please be seated.

:10PM

9 DONALD FEINSTEIN, GOVERNMENT WITNESS, SWORN

10 DIRECT EXAMINATION

11 BY MR. SCHAR:

12 Q Sir, if you would please state and spell your
13 name for us.

14 A Dr. Donald Feinstein, F-e-i-n-s-t-e-i-n.

:10PM

15 Q Where are you currently employed?

16 A I'm employed at the Academy for Urban School
17 Leadership.

:11PM

18 Q Keep a little bit of a distance between you and
19 the microphone, if you could.

20 A Yes.

21 Q Is that sometimes referred to the Academy for
22 Urban School Leader as AUSL?

23 A Yes.

:11PM

24 Q What is the Academy for Urban School Leadership
25 or AUSL?

D. Feinstein - direct by Schar

2211

1 A The Academy For Urban School Leadership is a
2 nonprofit organization that partners with the
3 Chicago Public School to train future teachers and
4 to fix failing schools.

:11PM

5 Q How long have you been affiliated with the
6 Academy For Urban School Leadership?

7 A 9 years.

8 Q Since its inception?

9 A Yes.

:11PM

10 Q what did you do before joining AUSL?

11 A I was an elementary school teacher. I taught
12 regular Ed and special education students. I was
13 also city-wide administrator for children with
14 emotional problems for Chicago Public Schools and I
15 was an elementary principal for 22 years.

:11PM

16 Q Where were you a principal?

17 A I was a principal at R. Nathaniel Dett Public
18 School in the Henry Horner Public Housing complex
19 and also at the Chicago Academy.

:12PM

20 Q What is your educational background,
21 Dr. Feinstein?

22 A I have a bachelor's degree from the University of
23 Illinois at Chicago, I have as master's degree from
24 northeastern Illinois University, and my Ph.D. from
25 Loyola University of Chicago.

:12PM

D. Feinstein - direct by Schar

2212

1 Q what is your official position at AUSL?

2 A I'm their executive director.

3 Q what are your job responsibilities as the
4 executive director of AUSL?

:12PM

5 A My job responsibilities are to provide overall
6 management and leadership in order for us to fill
7 our strategic mission of training teachers and
8 fixing failing schools.

:12PM

9 Q where is the Academy for Urban School Leadership
10 or AUSL located?

11 A We're located at 3400 North Austin.

12 Q Now, what else is located at 3400 North Austin?

:13PM

13 A The Chicago Academy Elementary School is on the
14 first two floors and the Chicago Academy High School
15 is on the third floor and our home office is on the
16 first floor.

17 Q what is the Chicago Academy?

18 A The Chicago Academy is a CPS AUSL public school
19 that trains future teachers for the school district
20 and also educates the children within that building.

:13PM

21 Q When you say CPS, are you talking about Chicago
22 Public Schools?

23 A Yes, sir.

24 Q How is the Chicago Academy affiliated with AUSL?

:13PM

25 A Well, AUSL being an educational management

D. Feinstein - direct by Schar

2213

1 organization, we provide management and consulting
2 and guidance to the operation of 18 schools for the
3 Chicago Public School district and one of them being
4 the Chicago Academy.

:13PM

5 Q Do sometimes people refer to AUSL as the Chicago
6 Academy although, technically, it's a different
7 entity?

8 A Yes.

:14PM

9 Q Does the Chicago Academy school have a full
10 grounds at the 3400 Austin location?

11 A Yes.

12 Q what does that include?

13 A It includes an athletic field in the 250,000
14 square foot building.

:14PM

15 Q Did the Chicago Academy always have an athletic
16 field?

17 A No, it did not.

18 Q I'd like to direct your attention, Dr. Feinstein,
19 to 2005.

:14PM

20 Were you and others interested in turning the
21 parking lot of the Chicago Academy into an athletic
22 facility at that time?

23 A Yes.

:14PM

24 Q what, if anything, were you trying to do to
25 accomplish that goal?

D. Feinstein - direct by Schar

2214

:14PM
1 A well, try to socialize the idea and spread the
2 word. It was important for us to have a high
3 quality school and in order to do that we felt you
4 needed a green space and especially for a high
5 school, a place for our high school teams to play
6 their sports.

7 Q who was your congressman in that location at that
8 time?

9 A We're in the Fifth Congressional District and our
10 congressman was Rahm Emanuel.
:15PM

11 Q And did the funding for the athletic field, as
12 you understood it, ultimately come through?

13 A Yes.

14 Q How did it come through in that 2005 time period?
:15PM

15 A The chairman of our AUSL board, Martin J. Kozak,
16 informed me that Rahm Emanuel told him that he got a
17 2 million-dollar grant from the Governor for us to
18 build an athletic field for the Chicago Academy and
19 Chicago Academy High School students and families.

20 Q Was there, in fact, a public announcement of that
21 grant?
:15PM

22 A After we received that word, we held a press
23 conference coinciding with the beginning of the
24 school year.

25 Q Where was the press conference held?

D. Feinstein - direct by Schar

2215

1 A On the front steps of the Chicago Academy
2 entrance.

3 Q So to the best of your recollection,
4 Dr. Feinstein, who was present for the press
5 conference?

6 A We had Arne Duncan, who was the Chief Executive
7 Officer for the Chicago Public Schools; Alderman Tom
8 Allen; Congressman Rahm Emanuel. I remember Randy
9 Dunn, who was the state superintendent for the
10 Illinois Board of Ed; Representative Joe Lyons.

11 There must have been others, I can't remember.

12 Q When you say at the beginning of school year, was
13 this approximately September of 2005?

14 A Yes.

15 Q Was there some publicity related to that press
16 conference?

17 A Yes, there was, I think, local newspaper and the
18 Sun-Times.

19 Q I'm going to --

20 MR. SCHAR: Judge, may I approach?

21 THE COURT: You may.

22 MR. SCHAR: I'd like to offer Government
23 Exhibit AUSL Article i and AUSL Grant Article ii.

24 MR. GOLDSTEIN: No objection.

25 THE COURT: Without objection.

D. Feinstein - direct by Schar

2216

1 (Government's Exhibits AUSL Article i and AUSL
2 Grant Article ii were received in evidence.)

3 BY MR. SCHAR:

4 Q I'll show you, Dr. Feinstein, Government Exhibit
:16PM 5 AUSL Article i and AUSL Grant Article ii.

6 A All right.

7 Q Have you seen those articles before?

8 A Yes.

9 Q Directing your attention to Government Exhibit
:17PM 10 AUSL Grant Article ii, is that a Chicago Sun-times
11 article?

12 A what is --

13 Q Is that a Chicago Sun-times article?

14 A Yes.

:17PM 15 Q what is the date of the article?

16 A September 1st, 2005.

17 Q And I'm going to blow up a section for the
18 screen. Can you read that for us?

19 A (Reading:)

:17PM 20 "..., find a plan for a 2 million sports
21 facility that will allow their first new public
22 high school established on the northwest side
23 in over 30 years to expand beyond the freshman
24 class that opened with last year officials
25 announced at a press conference at the school

:18PM

D. Feinstein - direct by Schar

2217

1 at 3400 North Austin on Wednesday."

2 Q At that time was it a 2-million-dollar grant?

3 A Yes.

4 Q And one more paragraph.

:18PM

5 Could you just read that for us.

6 A (Reading:)

7 "We're talking about a program that was on the
8 cover of the U.S. Department of Education's
9 newsletter recently as one of the most
10 innovative teacher training programs in the
11 country. I'm a spittin' convert said U.S.
12 Representative Rahm Emanuel who secured the
13 2-million-dollar state grant to expand the
14 institution in his district."

:18PM

15 Q I think you indicated that there actually was a
16 State of Illinois Superintendent of Public Schools
17 was present for the press conference?

18 A Yes.

:19PM

19 Q what happened after the press conference in
20 relation to you actually obtaining the
21 2-million-dollar grant?

22 A I was told, and I can't recall by whom, that I
23 needed to submit the paperwork to the Department of
24 Commerce and Economic Opportunity.

:19PM

25 Q what did you do?

D. Feinstein - direct by Schar

2218

1 A In order to submit the paperwork, we had to do
2 some environmental study, we had to do some traffic
3 control work, and I had to hire a civil engineer to
4 do the drawings for the field.

:19PM

5 Q Did you have an actual contact person at the
6 Department of Commerce and Economic Opportunity?

7 A Duane Brusnighan was the contact.

8 Q Is that who AUSL was working through to finish
9 off the grant paperwork?

:19PM

10 A Yes.

11 Q You indicated you hired a project manger, who was
12 that?

13 A Mike Lukich who was a license civil engineer.

14 Q What was the role of project manger in your
15 project?

:19PM

16 A Well, it was to provide me the technical
17 assistance. I'm not an engineer and he's built
18 fields before and he helped me walk through the
19 process and provided the technical assistance in
20 order to get the project up and running.

:20PM

21 Q And did this process take some period of time
22 into 2006?

23 A Yes.

:20PM

24 Q Based on your understanding that the grant had
25 been -- well, at some point were you told the grant

D. Feinstein - direct by Schar

2219

1 had been approved?

2 A Yes.

3 Q Do you recall approximately when?

4 A Well, it was before the spring of 2006 because
:20PM
5 that is when we bid out for a general contractor.

6 Q And based on your understanding that the grant
7 had been approved, did work start on the athletic
8 field project?

9 A It did, after school was let out at the end of
:20PM
10 June, beginning of the summer.

11 Q Is that 2006 now?

12 A 2006.

13 MR. SCHAR: Judge, may I approach again?

14 THE COURT: You may.

15 BY MR. SCHAR:

16 Q I'd like to show you what's been marked
17 Government Exhibit School Photo 1.

18 I ask you if you recognize that photograph.

19 A Yes.

20 Q What is it?

21 A Well, that was the beginning of the project when
22 we were sort of getting -- the ground was a giant
23 concrete parking lot, in order to begin the work to
24 do all the sewer work and everything, this is when
25 we started, you know, getting rid of the concrete

:21PM

D. Feinstein - direct by Schar

2220

1 and cement.

2 Q Does it accurately represent that area as the
3 work was beginning?

4 A Yes.

:21PM

5 MR. SCHAR: Judge, we move in Government
6 Exhibit School Photo 1 and ask to publish.

7 THE COURT: without objection; admitted.

8 (Government's Exhibit School Photo 1 was
9 received in evidence.)

:22PM

10 THE COURT: You may publish.

11 (Exhibit published to the jury.)

12 BY MR. SCHAR:

13 Q Actually, towards the top middle, is there an
14 indication that that is the Chicago Academy?

:22PM

15 A That's the school side.

16 Q Is that where you walk into the school?

17 A Yes, sir.

18 Q Can you just explain what we're looking at here
19 in this photograph?

:22PM

20 A Well, this was where prior to the beginning of
21 the project where parents and teachers and staff
22 would park their cars. Actually they almost butt up
23 to the fence. And that would be the main entrance
24 not for the high school but for the elementary
25 school and, obviously, we didn't park there once

:22PM

D. Feinstein - direct by Schar

2221

1 the project began.

2 Q Is there the beginning of the project?

3 A Yes.

4 Q At some point did bills start coming into the
:22PM AUSL for the athletic field project?

6 A Yes.

7 Q About when?

8 A Well, those started coming in when we had to do
9 the environmental work and actually when I hired the
:23PM 10 civil engineer, and that was approximately April,
11 May.

12 Q Did additional bills start to come in throughout
13 the period of the summer?

14 A Yes.

:23PM 15 Q What type of bills?

16 A General contracting bills, subcontracting bills
17 for the work being done on the project.

18 Q At that point did you have the grant money to pay
19 the bills?

:23PM 20 A No.

21 Q Did you know why?

22 A No.

23 Q At some point did these bills begin to pile up?

24 A Yes.

:23PM 25 Q What did you do?

D. Feinstein - direct by Schar

2222

1 A At some point in time I was directed to call Paul
2 Miller in the Governor's Office and that was the
3 gentleman I would be calling.

4 Q Did you have one conversation with Mr. Miller or
:23PM 5 multiple conversations?

6 A Multiple.

7 Q Were they ever in person or over the phone?

8 A Over the phone.

9 Q What did you and Mr. Miller discuss?

:23PM 10 A I kept asking him when will the grant money be
11 forthcoming and he would just share with me he
12 didn't know where the money was coming from.

13 Q In addition to Mr. Miller, who else did you reach
14 out to?

:24PM 15 A I reached out -- we had a lobbyist, I reached out
16 to the lobbyist, and I reached out to Congressman
17 Rahm Emanuel's office.

18 Q Who did you speak to in Congressman Emanuel's
19 office?

:24PM 20 A At different times I spoke to his Chief of Staff
21 and probably I think she was called Deputy Chief of
22 Staff Liz Shears and Loran Anderson.

23 Q What did you explain to them?

24 A I explained to them that the contractors wanted
25 to get paid and the money was not forthcoming and I

:24PM

D. Feinstein - direct by Schar

2223

1 needed help in obtaining the grant that we were
2 expecting.

3 Q what did you ask them to do?

4 A Help me, however; call whoever you need to call
5 to get us the money.

6 :24PM Q what response, if any, did you get?

7 A They called and I actually recall giving them
8 Paul Miller's name and I do know that one of them
9 called Paul Miller and they had multiple
10 conversations and they just kept telling me they
11 were working on it.

12 Q Were you feeling pressure at this point?

13 A Very much so.

14 Q Why?

15 :25PM A Because people wanted to get paid and I wasn't
16 able to pay them.

17 Q Now, this goes on throughout the summer. During
18 the summer, about what percentage of your time were
19 you spending trying to get this money?

20 :75PM A I felt that it consumed me.

21 Q At a certain point as summer started to head
22 towards the new school year, did you begin to get
23 information that the project would not be completed
24 in time?

25 :25PM A Well, I was concerned about that because the

D. Feinstein - direct by Schar

2224

1 whole idea was to get the project completed before
2 the opening of the school for safety of my family
3 and my students and, obviously, also we wanted to
4 play our first football game on the field at the
5 start of the school year.

:26PM
6 MR. SCHAR: Judge, may I approach?

7 THE COURT: You may.

8 BY MR. SCHAR:

9 Q I show you, Dr. Feinstein, what is marked
:26PM
10 Government Exhibit AUSL Grant 1.

11 I ask you if you recognize that as being the
12 document you received from your project manager?
13 A I think, to my best of my recollection, Mike
14 Lukich --

15 Q I'm sorry. The question is, do you recognize
16 that?

17 A Yes.

18 Q Does it appear to be in the same condition as
19 when you received it originally?

20 A Yes.

21 MR. SCHAR: Judge, we move Government Exhibit
22 AUSL Grant 1 into evidence.

23 THE COURT: Without objection.

24 (Government's Exhibit AUSL Grant 1 was received
25 in evidence.)

:26PM

D. Feinstein - direct by Schar

2225

1 MR. SCHAR: Ask to publish portions of it?

2 THE COURT: You may.

3 (Exhibit published to the jury)

4 BY MR. SCHAR:

:27PM

5 Q Is this a memo you received from your project
6 manger?

7 A Yes.

8 Q And is the date on the memo September 11, 2006,
9 at 5:30 p.m.?

:27PM

10 A Yes.

11 Q Who is the memo to?

12 A To me.

13 Q From whom?

14 A Mike Lukich.

:27PM

15 Q Who was Mike Lukich?

16 A He was our civil engineer and project manager.

17 Q What's it regarding?

18 A It was regarding the athletic field.

19 Q I'm going to have you read portions of it.

:27PM

20 If you could you read the section that's on
21 the screen, if you would?

22 A (Reading:)

23 "I heard some disturbing news this morning.

24 Chicagoland Paving will not make this project

:27PM

25 their priority, nor expect their subcontractors

D. Feinstein - direct by Schar

2226

1 to order additional materials or continue their
2 work. This decision was made based upon:
3 Chicagoland has in good faith continued work,
4 completing close to 70 percent, 1.1
5 million-dollar of the contract, with pay
6 request 1 still past due. No date or time
7 frame for future payment has been offered."

8 Q Was this a memo from Mr. Lukich basically
9 indicating there were issues as to whether or not
10 work was going to continue on the project?

11 A Yes.

12 Q Does he go on to detail potential issues that now
13 have come up because of the delay in the funding?

14 A Yes.

15 Q Could you read the next section for us.

16 A (Reading:)

17
18 "... revision to the current contract prices
19 most likely leading to a greater project cost.
20 The concern our office has is that we are
21 approaching mid September and there remains
22 only a limited number of construction days.
23 This is compounded by the fact that many of the
24 items to be installed are temperature sensitive
25 and need to be installed at specific

D. Feinstein - direct by Schar

2227

1 temperature ranges. If we miss the window, the
2 project will sit the entire winter and spring.
3 Since the contract is based on work being
4 completed this fiscal year, the contractor will
5 probably request that the contract prices be
6 revised to reflect 2007 prices."

7 Q Could you read the next section.

8 A (Reading:)

9 ".... loss of the fall and spring athletic
10 season, the grade school and high school will
11 lose the fall and spring seasons. The athletic
12 field facility essentially will not be even
13 used until September 2007. The athletic
14 director will need to be notified and any
15 scheduled games that the academy will need to
16 be cancelled or moved to an alternate
17 location."

18 Q Moving on to the next page of the exhibit,
19 Dr. Feinstein.

20 A (Reading:)

21 ".... city of Chicago permit violations not
22 completing the work in the required time frame
23 may be in violation of the city permit,
24 especially with regard to the fencing and
25 landscaping. I will check on this one and find

:29PM

:29PM

:29PM

:29PM

:30PM

D. Feinstein - direct by Schar

2228

1 out whether we need to get an extension."

2 Q Are these all potential issues that were now
3 coming up?

4 A Yes.

:30PM

5 Q Go ahead to the next section.

6 A (Reading:)

7 "..., traffic operations site maintenance: The
8 current condition at the main entrances will
9 remain. The unfinished condition will require
10 school staff or the contractor at additional
11 cost to maintain the area until summer. Since
12 snow plowing the area will be difficult,
13 coupled with poor drainage that will inevitably
14 lead to icing conditions, the school will need
15 to have an alternate plan if the entrance that
16 the students, faculty, and parents use is
17 moved. If we change the entrance, this may
18 affect the vehicular traffic, pick-up, drop-off
19 pattern which means that we will then have to
20 return to the city DOT and alderman's office
21 for approval to revise the current points of
22 egress and ingress along Austin

:30PM

23 Q And finally regarding this document,
24 Dr. Feinstein, the next section.

:30PM

25 A (Reading:)

:31PM

D. Feinstein - direct by Schar

2229

1 "... quality of workmanship: If this situation
2 is resolved later than sooner, the contractor
3 will push to complete the project even in
4 marginal weather conditions and we may not get
5 the best finished product. Although the
6 contractors guarantee us for 1 year, I am
7 thinking that some of the long-term quality
8 will suffer ..." :31PM

9 Q Were these all issues that were brought to bear
10 on you when you were attempting to get this money to
11 resolve this? :31PM

12 A Yes.

13 Q Were you considering other options in terms of
14 trying to get funding -- let me ask you, did you
15 have independent at this point, did AUSL have the
16 money to pay for the project? :31PM

17 A No.

18 Q Were you considering other options in terms of
19 trying to get the money? :31PM

20 A Internally, we were considering two options: One
21 was to have my parents and students write a petition
22 to the Governor to get the money, and the second
23 option was to take out a 2-million-dollar loan.

24 Q Take out a 2-million-dollar loan to pay for it?

25 A Yes. :32PM

D. Feinstein - direct by Schar

2230

1 Q At some point -- well, what happened next?

2 A Well, at some point there was a breakthrough and
3 we did receive a first installment of \$250,000.

4 Q Do you know what happened in terms of causing the
5 breakthrough?

6 A No.

7 Q Did anyone ever explain to you what the problem
8 was?

9 A No.

10 Q Was the \$2 million disbursed to you at one time?

11 A No.

12 Q To the best of your recollection, how many
13 installments were there?

14 A Five.

15 Q Do you know why there were five installments?

16 A No.

17 Q What did you have to do for each installment of
18 the grant?

19 A I had to provide copies of expense, receipts or
20 reports, and fill out a new overall grant agreement.

21 MR. SCHAR: May I approach, Judge?

22 THE COURT: You may.

23 BY MR. SCHAR:

24 Q I show you, Dr. Feinstein, what I have marked as
25 Government Exhibit AUSL Grant 1; Government Exhibit

:32PM

:32PM

:32PM

:32PM

:33PM

D. Feinstein - direct by Schar

2231

1 AUSL Grant 2, Government Exhibit AUSL Grant 3,
2 Government Exhibit AUSL Grant 4, and Government
3 Exhibit AUSL Grant 5.

4 Do you recognize those five exhibits?

:33PM

5 A Yes.

6 Q what are they?

7 A This is a copy of the grant agreement that was
8 provided by the Department of Commerce and Economic
9 Opportunity.

:33PM

10 MR. SCHAR: Judge, we move Government Exhibit
11 AUSL grant 1, AUSL Grant 2, AUSL Grant 4 and AUSL
12 Grant 5 into evidence.

13 THE COURT: without objection, admitted.

:33PM

14 (Government's Exhibits Government Exhibit AUSL
15 grant 1, AUSL Grant 2, AUSL Grant 4 and AUSL
16 Grant 5 were received in evidence.)

17 BY MR. SCHAR:

18 Q what type of information needed to be provided in
19 each of those separate grants?

:34PM

20 A Basically, it was the activities that were
21 creating the expenses for the project.

22 Q And were five different sets of paperwork
23 generated?

24 A Yes.

:34PM

25 Q Do you have to participate in doing the five

D. Feinstein - direct by Schar

2232

1 different grants by providing certain information?

2 A Yes.

3 Q Is it easier -- was it less work or more work to
4 do five grants as opposed to one grant?

:34PM

5 A More work.

6 Q And, ultimately those -- were those five grants
7 ultimately granted at one time?

8 A At five different times.

:34PM

9 Q Based on your review of those documents, what
10 where the five different dates of the different
11 grants? If you could go through 1 to 5.

12 A Well, the first grant September 5th, '06.
13 September 13th.

:34PM

14 Q That was the second grant?

15 A The second grant.

16 September 25th, third grant. August 30th.

17 Q August 30th?

18 A I mean, I'm sorry, October 30th. I apologize.

19 Q For the fourth grant?

:35PM

20 A The fourth grant.

21 And December 14th for the fifth grant.

22 Q And that's all 2006?

23 A Yes, sir.

:35PM

24 Q And the fifth grant on December 16th, did you
25 say, sir?

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1 A December 14th.

2 Q December 14th. How much was that grant?

3 A \$916,000.

4 Q You waited all the way till December to get close
:35PM to \$1 million of your grant?

6 A Yes.

7 Q Now, going back to the first grant. How much was
8 the first grant?

9 A \$250,000.

:35PM 10 Q Did it pay off all the bills that you owed when
11 you received it?

12 A No.

13 Q Did you continue to be concerned during this time
14 period?

:35PM 15 A Yes.

16 Q Why?

17 A Because there's no clear indication that I would
18 be receiving more money.

:36PM 19 Q when you added up the total of all those five
20 grants, by December had you finally received close
21 to the \$2 million?

22 A Yes.

23 MR. SCHAR: May I approach again, Judge?

24 THE COURT: You may.

:36PM 25 BY MR. SCHAR:

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1 Q Showing you Government Exhibit School Photo 2,
2 which I would also move into evidence and ask to
3 publish.

4 THE COURT: Admitted.

5 (Government's Exhibit School Photo 2 was
6 received in evidence.)

7 MR. SCHAR: May I publish, Judge?

8 THE COURT: You may.

9 (Exhibit published to the jury.)

:36PM

10 BY MR. SCHAR:

11 Q Ultimately, were you able to complete the field?

12 A Yes.

13 Q Is that a picture from the opposite side that we
14 were looking at before when we were looking at the
15 field?

:36PM

16 A Yes.

17 Q Dr. Feinstein, how many grants have you been
18 involved in over the course of your career?

19 A Maybe 40, 50.

:36PM

20 Q Have you ever been involved in any other grants
21 like this one?

22 A No.

23 Q What was different about this grant?

24 MR. GOLDSTEIN: Objection.

:37PM

25 THE COURT: He may answer.

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1 BY THE WITNESS:

2 A It was unclear, the timing of the money, and it
3 was just the -- it was vague about how -- how -- how
4 the grant was being operated or handled.

:37PM

5 BY MR. SCHAR:

6 Q Have you ever had to be this persistent in trying
7 to get your money?

8 A No.

:37PM

9 Q Have you ever been previously involved in one
10 grant that would be broken down into five different
11 grants?

12 A No.

13 MR. SCHAR: Judge, may I have a moment?

14 THE COURT: Sure.

:37PM

15 (Brief pause).

16 MR. SCHAR: Thank you.

17 Nothing else, Judge.

18 THE COURT: We'll break for lunch. One hour.

19 THE MARSHAL: All rise.

:37PM

20 (The following proceedings were had out of the
21 presence of the jury in open court:)

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1 THE COURT: You may step down.

2 (witness temporarily excused.)

3 THE COURT: We are adjourned.

4

5 (Luncheon recess taken from 12:37 o'clock p.m.

6 to 1:47 o'clock p.m.)

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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

3 UNITED STATES OF AMERICA, }
4 Government, } No. 08 CR 888
5 vs. } Chicago, Illinois
6 ROD BLAGOJEVICH, } June 21, 2010
7 ROBERT BLAGOJEVICH, }
8 Defendants. } 1:47 o'clock p.m.

VOLUME 11
TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE JAMES B. ZAGEL
AND A JURY

For the Government:

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1 (The following proceedings were had out of the
2 presence of the jury in open court:)

3 COURT'S LAW CLERK: Please remain seated.

4 THE COURT: Counsel, do we have an issue?

5 :47PM MR. SOROSKY: Yes, Your Honor. The next
6 witness after this witness, it concerns that
7 witness. Now, would you want to do it now or after
8 this witness?

9 THE COURT: I'm sitting here.

10 :47PM MR. SOROSKY: Okay. I take it that means
11 now. See, sometimes the C student gets it right.

12 Now, the next witness is going to testify to
13 certain things that the defendant Governor
14 Blagojevich said to him in a conversation.

15 :47PM The witness would then testify, if the
16 government had its way: I thought that was illegal,
17 and then I told Mr. B and Mr. C agreed with me that
18 he, Mr. B, thought it was illegal.

19 The defense would suggest that all those
20 thoughts should be barred from evidence and the jury
21 should not be allowed to hear it and this next
22 witness should not testify to Mr. B's concurrence
23 and thought that it was illegal since we feel this
24 would be in accord with all this Court's prior
25 rulings that witnesses on the witness stand could

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1 not give their opinion as to what is legal and
2 illegal, that would be for the jury to decide based
3 on the Court's instructions.

4 MR. SCHAR: Judge, I largely agree, with the
5 exception of, and in fact we filed a motion on the
6 Government's motion that you may regard as a lay
7 witness conclusions of law with a suggested limiting
8 instruction.

9 This particular witness isn't just opining
10 that it would be inappropriate, he thought this was
11 illegal. He thought immediately that it was illegal
12 and because of that he took certain steps. So it
13 goes to explain it.

14 I agree there should be a limiting
15 instruction and we proposed one and I would be happy
16 to hand up again what we had proposed in that
17 filing.

18 THE COURT: okay. Generally speaking,
19 thoughts don't go into evidence. People say things
20 about thoughts they had. Am I correct to infer that
21 this witness is in a conversation with Defendant
22 Blagojevich?

23 MR. SOROSKY: Correct.

24 THE COURT: And some subject is mentioned?

25 MR. SOROSKY: Correct.

D. Feinstein - direct by Schar

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1 THE COURT: And then the witness says to
2 Defendant Blagojevich, without the intermediatation
3 of why he said it, "if this is illegal"?

4 MR. SOROSKY: No, no, the conversation is
5 very neutral. It just relates facts.

6 THE COURT: Okay, I want to know what the
7 conversation was, otherwise --

8 MR. SOROSKY: The wording or the --

9 THE COURT: Just start telling me what the
10 wording is instead of explaining to me.

11 MR. SOROSKY: This witness has a conversation
12 with Governor Blagojevich and the Governor
13 supposedly says, according to this witness, words
14 like: Fundraiser, tell Rod's brother to have a
15 fundraiser, or words to that effect.

16 THE COURT: Yes. And then what happened?

17 MR. SOROSKY: There was no more colloquy, the
18 conversation ends.

19 THE COURT: Okay. Got that.

20 MR. SOROSKY: The witness then apparently in
21 his debriefing by the FBI says --

22 THE COURT: Tell me what he says.

23 MR. SOROSKY: He doesn't say anything, just
24 his thoughts.

25 THE COURT: Right. Okay.

D. Feinstein - direct by Schar

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1 MR. SOROSKY: He does not say anything, but
2 3 years later in his debriefing by the FBI --

3 MR. SCHAR: what he does, Judge, is he then
4 makes two phone calls immediately or shortly
5 thereafter, the reason being he believes what he's
6 been told is illegal. One call goes to an associate
7 of Defendant Blagojevich and he explains what just
8 happened and what he thinks is happened and why he's
9 telling that associate his concern with Defendant
10 Blagojevich would reach out to that associate.

11 The second call goes to the general counsel
12 the Office of the Governor who he also explains the
13 situation to tells him to try to control
14 Blagojevich.

15 The reasons he makes both of those phone
16 calls is because of what he believed just happened.

17 MR. SOROSKY: In the first --

18 THE COURT: okay, I got that part.

19 MR. SOROSKY: Okay.

20 THE COURT: But I need to know more. Where
21 does this fit in with your case?

22 MR. SCHAR: This is a conversation, this
23 episode, this episode, this is a conversation in
24 which basically Defendant Blagojevich tells him he's
25 holding up the grant because he wants a fundraiser.

D. Feinstein - direct by Schar

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1 THE COURT: what words does he use? That's
2 this whole problem. You're telling me what this is
3 about, you're telling me how you are going to argue
4 it, I want somebody to tell me what this witness is
5 going to say.

6 :52PM
7 MR. SOROSKY: Allow me to answer that, and
8 I'm just reading from his grand jury testimony which
9 is under oath: Supposedly this witness has a
10 conversation with Governor Blagojevich asking about
11 where are the funds for the school.
12 :52PM

13 THE COURT: okay.

14 MR. SOROSKY: And the Governor allegedly
15 says, according to this witness under oath at the
16 grand jury: Where is my fundraiser? Tell Ron to
17 have his brother have a fundraiser." That's all
18 this witness says. That is the only colloquy in the
19 conversation.

20 THE COURT: okay. Got it.

21 MR. SOROSKY: Thereafter --
22 :53PM

23 THE COURT: okay. Stop.

24 okay, he's testified to this.

25 MR. SCHAR: (Nodding.)
26 THE COURT: Then the next thing he says is?
27 MR. SCHAR: The next question is, what did
28 you do next.
29

D. Feinstein - direct by Schar

2245

1 THE COURT: And then he says, I called an
2 associate of the Governor?

3 MR. SCHAR: Yes.

4 THE COURT: And expressed my concern?

5 MR. SCHAR: More or less, yes.

6 THE COURT: Then I called the Governor's
7 general counsel and expressed my concerned?

8 MR. NIEWOEHNER: There is a little more
9 detail, but yes.

10 MR. SOROSKY: My --

11 THE COURT: Wait. Wait. Wait.
12 Okay.

13 THE COURT: Anything after that?

14 MR. SCHAR: He basically distances himself
15 from the entire situation.

16 THE COURT: And his explanation for
17 distancing himself is?

18 MR. SCHAR: Thought what was going on was
19 illegal, it was wrong.

20 THE COURT: Okay. Now, why is it significant
21 to you that he distances himself? How does this go
22 along with the flow?

23 MR. SCHAR: He distances himself and John
24 Harris -- actually, he has a conversation with John
25 Harris where John Harris gets involved in

:53PM

:53PM

:53PM

:53PM

:54PM

D. Feinstein - direct by Schar

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1 administering this grant which is unusual for a
2 number of circumstances, and that obviously would
3 lead to Mr. Harris' testimony, as well.

4 THE COURT: Now.

5 :54PM MR. SOROSKY: Now, if I may respond. To work
6 within the framework that Mr. Schar has presented to
7 Your Honor: After this conversation between this
8 witness and Governor Blagojevich has occurred, the
9 witness would say, if Mr. Schar would have his way:
10 I called up Mr. B and I related to Mr. B what the
11 Governor said, I think it's illegal, what do you
12 think Mr. B. Mr. B concurs with me that it's
13 illegal.

14 :54PM I think this should be barred from the jury's
15 ears because it would be in disagreement and not in
16 compliance and not in accord with Your Honor's
17 previous rulings that lay witnesses cannot give
18 their opinions as to what is legal and not legal.
19 It is for the jury to decide after they have heard
20 all the evidence and have been instructed in the law
21 to Your Honor.

22 :55PM MR. SCHAR: I am not asking him, do you think
23 this is illegal. what he's saying is he has a
24 conversation with the associate. The reason he
25 reaches out to the associate is part of his concern

D. Feinstein - direct by Schar

2247

1 is the associate is both friendly with Defendant
2 Blagojevich and Rahm Emanuel and he wants to get to
3 that associate before Governor Blagojevich does and
4 makes the same request because he thinks its
5 possible and likely to happen.

:55PM

6 And, in fact, somewhere down the road that
7 associate is likely to testify in this trial and
8 there's a statement where they had a conversation
9 where this issue came up.

:55PM

10 So it's important to explain why he takes the
11 steps and it's important that he warns him about
12 what's happened for the very reason he's concerned.
13 Again, this is an attempt charge so it talks about
14 he's concerned that additional steps are going to be
15 taken to implement this plan.

:56PM

16 MR. SOROSKY: If I may respond briefly?
17 THE COURT: Not until I get some more
18 information.

:56PM

19 MR. SOROSKY: Okay.

20 THE COURT: What exactly does he remember
21 saying to the associate?

22 MR. SCHAR: To the associate?

23 THE COURT: Yeah.

:56PM

24 MR. SCHAR: What he remembers saying is,
25 calling up the associate, reiterating the

D. Feinstein - direct by Schar

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1 conversation that he just had with Defendant
2 Blagojevich, shortly thereafter he talks to the
3 associate, and basically saying to the associate
4 that -- he says I wanted to warn the associate that
5 he should be aware of what Governor Blagojevich is
6 proposing and that he explained to him what had
7 happened, that he thought it was improper, and that
8 basically if any conversation happens, the associate
9 shouldn't take any steps or actions in relation to
10 that.

11 THE COURT: Okay. And what does he say to --
12 who is the other person? Oh, the general counsel.

13 MR. SCHAR: To the general counsel, he
14 repeats the conversation and basically tells him to
15 get his client under control, if he can.

16 THE COURT: Does he use the word "illegal"?

17 MR. SCHAR: I believe he does with the
18 associate, I think he also calls it stupid. I'm not
19 sure he does with the general counsel.

20 THE COURT: Okay. What words does he use
21 with the general counsel?

22 MR. SCHAR: Basically just repeats the
23 conversation that to get him under control.

24 THE COURT: My concern here is that I don't
25 know if he's actually offering a legal opinion to

:56PM

:57PM

:57PM

:57PM

:57PM

D. Feinstein - direct by Schar

2249

1 begin with. If he's using words like "improper"
2 maybe he's talking about law, maybe he's talking
3 about the fact that he thinks it's morally improper.
4 And saying that something is wrong is not the same
5 thing as saying it is illegal.

6 I know that today when some people -- I don't
7 think it's true in this court, but you'll see people
8 on television who have done horrible things,
9 inexcusably moral offenses and it's no law against
10 it as if that makes it morally right. And I don't
11 know whether at the core of this there is underlying
12 this a legal conclusion or a moral conclusion.

13 And the reason this is important is, I don't
14 think this witness is offering an opinion in
15 precisely the manner that compares with the
16 objections I've sustained.

17 Now, part of the reason of the objection is
18 lawyers, and I don't know why lawyers do this, I've
19 always followed the rule that I never ask a witness
20 a question that contained a Latin phrase because
21 they all have technical legal meanings, and "quid
22 pro quo" is one of them. And some of this I didn't
23 allow simply because it requires, at the bottom, a
24 definition that underlies the question where
25 "improper" does not.

:58PM

:58PM

:59PM

:59PM

:59PM

D. Feinstein - direct by Schar

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1 So tell me why you think at the core this is
2 a legal opinion.

3 MR. SOROSKY: Because --

4 THE COURT: Rather than an initial reaction
5 that, you know, we can't do this.
:00PM

6 MR. SOROSKY: Because the next witness, one
7 is a lawyer. I believe he will be portrayed to this
8 jury, and understandably and correctly so, as a very
9 intelligent, capable, and accomplished individual
10 lawyer, and I believe his testimony will basically
11 relate, and I'm just reading his grand jury
12 statement, after --
:00PM

13 THE COURT: why don't you let me look at it.
14 It would make life easier for me.
:01PM

15 (Brief pause).

16 THE COURT: okay.

17 MR. SOROSKY: It would be the defense
18 position on this narrow point: The only value,
19 evidentiary value that this testimony has is of a
20 prejudicial nature to give this witness'
21 opinion--and we're talking about a man who is going
22 to be presented to the jury as a skilled
23 accomplished attorney--that the colloquy between he
24 and one defendant was illegal.
:02PM

25 Now, no matter how sage an instruction Your

D. Feinstein - direct by Schar

2251

:03PM
1 Honor can give, that instruction will not be able to
2 undo this very accomplished attorney's testimony
3 that, in his opinion, what was said was illegal.
4 And this is corroborated by: I then called B to get
5 the proverbial second opinion and B agrees that it's
6 illegal.

:03PM
7 THE COURT: You do have a fairly loose
8 definition of "opinion." The fact that a lawyer
9 thinks something is illegal does not qualify as an
10 opinion. And I have no idea this is -- well, what
11 field does this lawyer practice?

:03PM
12 MR. SCHAR: He doesn't practice law. He went
13 to law school and he got a job as a deputy Governor.
14 He doesn't practice law and did not at all, that was
15 not part of his job.

:03PM
16 And I would just note, Judge, that part of
17 what's going on here is, I believe, an attempt by
18 the defense to suggest Defendant
19 Blagojevich surrounded himself with lawyers,
20 including a guy who didn't practice law at all, and
21 then later probably suggest: Gee, I didn't know
22 anything wrong was going on.

:03PM
23 THE COURT: I recognize that inherent in this
24 defense could be, but not necessarily so, could be
25 the kind of thing where to take it out of the field

D. Feinstein - direct by Schar

2252

:04PM
1 of law, somebody gets a heart attack and says I
2 don't understand how this happened, I saw my doctor
3 3 months ago. Did you tell the doctor that you were
4 having chest pains? Well, no, you know, he examined
5 me and he should know and thus told me. And there
6 are plenty of people who think this way.

:04PM
7 I will let it in to explain his conduct. I
8 do not believe that this witness will take the
9 position that this is a formal opinion or a legal
10 and considered conclusion that the act was illegal.
11 I believe that saying "I thought it was illegal"
12 simply explains what he's doing.

:05PM
13 You might very well want to bring out on
14 direct examination that this does not represent a
15 formal opinion, that he did not do the research,
16 that he didn't consult with others, and that he's
17 not a specialist in this particular field.

:05PM
18 If after that direct examination and after
19 the cross-examination the defendant wants me to give
20 the cautionary instruction, I will give it.

21 It is my belief that when this witness is
22 done testifying and after cross-examination, the
23 jury will be quite, on its own, capable of
24 understanding that this is not a formal legal
25 opinion. And given the notice I received this

D. Feinstein - direct by Schar

2253

1 morning with respect to a possible defense, we're
2 going to be spending a fair amount of time on
3 precisely what constitutes opinions of counsel.

4 So the objection is overruled on the
5 conditions that I have specified.

6 MR. SCHAR: Thank you, Judge.

7 MR. SOROSKY: There's one more.

8 THE COURT: Sure.

9 MR. SOROSKY: On the same witness.

10 THE COURT: Okay.

11 MR. SOROSKY: This same witness will then say
12 he talked to another executive in the Governor's
13 administration.

14 THE COURT: This is a third person?

15 MR. SOROSKY: No, no, this is completely
16 unrelated, same witness but --

17 MR. SCHAR: Judge, I think I can cut to the
18 chase on this. The witness is going to say that he
19 talked to John Filan regarding this grant. He told
20 him there was a hold-up in the Governor's office.
21 We're not offering that statement for the truth, it
22 actually goes to explain why he then ultimately
23 reaches out to defendant Blagojevich.

24 So if he wants a limiting when that statement
25 is offered as being offered to explain actions

:05PM

:06PM

:06PM

:06PM

:06PM

D. Feinstein - direct by Schar

2254

1 thereafter, there is no objection to that.

2 THE COURT: Before you offer that, we'll take
3 a break. This is subsequent to this stuff we've
4 been talking about?

:07PM

5 MR. SCHAR: It's actually before. It's a
6 lead to the conversation with Defendant Blagojevich.

7 THE COURT: okay, tell me more about it.

8 MR. SCHAR: He basically tracks down Filan to
9 find out why the grant hasn't funded.

:07PM

10 THE COURT: It starts with Filan.

11 MR. SCHAR: It starts with Filan. And Filan
12 tells him the hold-up is in the office of the
13 Governor; thereafter because of that, he ultimately
14 reaches out to Defendant Blagojevich.

:07PM

15 THE COURT: Okay.

16 MR. SOROSKY: My response would be --

17 THE COURT: Well, let me ask one question
18 first. Is it disputed that the hold-up is in the
19 office of the Governor?

:07PM

20 MR. SOROSKY: Yes.

21 THE COURT: Because as I understood the
22 defense in this case is that the bad acts, at least
23 some of them and maybe all of them were done by
24 personnel of the Governor's office, not the governor
25 himself.

:07PM

1 MR. SOROSKY: That, undoubtedly, is a
2 substantial portion of the defense; however, on this
3 particular issue, it is 1,000 percent disputed that
4 the hold-up is in the Governor's Office.

:08PM

5 THE COURT: That's all I want to know.

:08PM

6 MR. SOROSKY: Concerning this issue, these
7 are not statements by a coconspirator in furtherance
8 of the conspiracy because I believe the next witness
9 is not considered a coconspirator and Mr. Filan is
10 not considered a coconspirator.

:08PM

11 So all we have here is rank hearsay with the
12 next witness testifying that I talked to John Filan
13 and John Filan said. And the government is only
14 offering this for the prejudicial value of what John
15 Filan said.

:08PM

16 John Filan is certainly as available as a
17 witness. If the government wants to call John
18 Filan, they certainly could call him. There isn't
19 any need for this hearsay to go in. It is only
20 offered for the prejudicial value and the
21 prejudicial value clearly outweighs any probative
22 value.

:09PM

23 THE COURT: I'll keep it out with respect to
24 his memory of what the government said, this is
25 trivial.

D. Feinstein - direct by Schar

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1 MR. SCHAR: Can I elicit some explanation,
2 without getting into the comment, he seeks out John
3 Filan has a talk with John Filan and he reaches out?

4 THE COURT: Sure. But not Filan's statement.

:09PM 5 MR. SOROSKY: One last thing. At the very
6 end of this witness' testimony, I believe the
7 government will offer some testimony regarding the
8 sentencing issue.

9 MR. SCHAR: We won't.

:09PM 10 THE COURT: Good.

11 MR. SOROSKY: Judge --

12 THE COURT: Wait. Wait, Mr. Schar.

13 (Whereupon, there was a conference between
14 counsel:)

:09PM 15 THE COURT: Okay, we're set?

16 MR. SOROSKY: Yes.

17 THE COURT: Thanks.

18 THE MARSHAL: All rise.

19 (The following proceedings were had in the
20 presence of the jury in open court:)

21 THE COURT: Please be seated.

22 You may inquire.

23 MR. GOLDSTEIN: Thank you, Your Honor.

24

25

D. Feinstein - cross by Goldstein

2257

1 DONALD FEINSTEIN, GOVERNMENT WITNESS,
2 PREVIOUSLY SWORN
3 CROSS EXAMINATION

4 BY MR. GOLDSTEIN:

:12PM

5 Q Good afternoon, Doctor.

6 You've been the executive director of the
7 Academy for Urban School Leadership since 2001, is
8 that correct?

9 A 2005.

:12PM

10 Q 2005?

11 A Yes.

12 Q And Chicago Academy was the first school under
13 AUSL?

14 A Correct.

:12PM

15 Q And as you opened, as Chicago Academy was opened,
16 there was a need for an athletic facility, is that
17 correct?

18 A Yes.

:12PM

19 Q And the way this facility was, there was a
20 building and right next to it was a parking lot?

21 A Correct.

22 Q So you saw that the parking lot should be used
23 for an athletic field?

24 A Yes.

:12PM

25 Q Okay. And you went over the analysis as far as

D. Feinstein - cross by Goldstein

2258

1 how much money this would potentially cost?

2 A Yes.

3 Q And you needed approximately \$2 million for this
4 field, is that correct?

:12PM

5 A Yes.

6 Q Now, you indicated that there was a press
7 conference around late August, early September
8 of 2005 announcing this grant?

9 A Yes.

:13PM

10 Q Okay. And at the press conference, you indicated
11 there was a state representative there, was there?

12 A The State Superintendent.

13 Q The State Superintendent?

14 A For the Illinois State Board of Ed.

:13PM

15 Q Was there anyone from the state legislature
16 there?

17 A I recall Representative Joe Lyons.

18 Q Lyons.

19 A Alderman Tom Allen.

:13PM

20 Q Now, Joe Lyons was a State Representative. Was
21 there any money from the state legislature given to
22 the school?

23 A For the field?

24 Q Correct.

:13PM

25 A No.

D. Feinstein - cross by Goldstein

2259

1 Q You also indicated that Arne Duncan was there?

2 A Yes.

3 Q And he was at the time the CEO of the Chicago
4 Public Schools?

:13PM

5 A Yes.

6 Q Was there any grant money that came from the city
7 of Chicago for this field?

8 A No.

9 Q And Rahm Emanuel was there, as well?

:13PM

10 A Yes.

11 Q And he was at the time a U.S. Representative?

12 A Yes.

13 Q Was there any federal grant money provided to the
14 school?

:13PM

15 A For this field at that time, no.

16 Q So the entire \$2 million grant was to come from
17 the State of Illinois?

18 A Yes.

:14PM

19 Q And, specifically, the Governor's Office to give
20 a grant, is that correct?

21 A Yes.

22 Q And in order to get this grant through, there was
23 a lot of paperwork that had to be done?

24 A Yes.

:14PM

25 Q And the paperwork took significant amount of time

D. Feinstein - cross by Goldstein

2260

1 to the point that in June of 2006 the work started
2 to begin, is that correct?

3 A Yes.

4 Q And so the work started in June of 2006, and the
:14PM 5 school received all its money in December of 2006,
6 is that right?

7 A Yes.

8 Q Okay. Did you ever talk to Bradley Tusk, the
9 deputy of the governor about this grant?

:14PM 10 A No.

11 Q Did you ever talk to Rahm Emanuel about this
12 grant?

13 A At the press conference.

14 Q At the press conference?

:14PM 15 A Yes.

16 Q Since the press conference, did you ever talk to
17 Rahm Emanuel about the plan?

18 A No.

19 Q You were in some communication with his office,
:15PM 20 is that correct?

21 A Yes.

22 Q Your main contact -- well, did you speak to
23 Governor Blagojevich about this grant?

24 A No.

25 Q Your main contact in the Governor's Office or the

D. Feinstein - cross by Goldstein

2261

1 state was a man by the name of Paul Miller, is that
2 correct?

3 A Yes.

4 Q And Paul Miller was a lawyer in the Governor's
:15PM 5 office, to your knowledge?

6 A I don't know what his role was in the Governor's
7 office.

8 Q You had a decent amount of communications with
9 Mr. Miller?

:15PM 10 A Yes.

11 Q And based on your communications with Mr. Miller,
12 it was your understanding that the state didn't know
13 where exactly this money was going to come from, is
14 that correct?

:15PM 15 A Yes.

16 Q And were you aware -- did you have any knowledge
17 as far as the budgetary constraints that the state
18 was having at this time?

19 A No.

:15PM 20 Q Were you aware of any of the bills that the state
21 was not able to pay during this period of time?

22 A No.

23 MR. GOLDSTEIN: Could you publish government
24 Photo Number 2?

:16PM 25 (Brief pause).

D. Feinstein - cross by Goldstein

2262

1 MR. GOLDSTEIN: Your Honor, if I may publish
2 the government School Photo Number 2?

3 THE COURT: Sure.

4 (Exhibit published to the jury.)

:16PM

5 BY MR. GOLDSTEIN:

6 Q As we're bringing that up, Doctor, the field was
7 completed, is that correct?

8 A Yes.

9 Q When was it completed?

:16PM

10 A I think around October.

11 Q October of?

12 A 2006.

13 Q 2006. Okay.

:16PM

14 And do you recall when this picture was
15 taken?

16 A No, I do not.

17 Q And the field, that was the \$2 million that was
18 needed to make that field, is that correct?

19 A Yes.

:16PM

20 Q And that field was completed in October of 2006,
21 correct?

22 A Yes.

23 Q And it was built solely on state funds, is that
24 correct?

:17PM

25 A Yes.

Tusk - direct by Schar

2263

1 Q And all the money was paid, is that correct?

2 A Yes.

3 Q And it was paid by the State of Illinois granted
4 by Governor Blagojevich, is that correct?

:17PM

5 A Yes.

6 MR. GOLDSTEIN: If I may have one moment.

7 (Brief pause).

8 MR. GOLDSTEIN: Nothing further.

9 Thank you, Your Honor.

:17PM

10 MR. SCHAR: Nothing further.

11 THE COURT: You may step down.

12 (witness excused.)

13 MR. SCHAR: The government calls Bradley
14 Tusk.

:18PM

15 THE COURT: Face me and raise your right hand
16 right.

17 (witness duly sworn.)

18 THE COURT: Please be seated.

:18PM

19 BRADLEY TUSK, GOVERNMENT WITNESS, SWORN
20 DIRECT EXAMINATION

21 BY MR. SCHAR:

22 Q State and spell your first name and your last.

23 A Bradley Tusk, B-r-a-d-l-e-y T-u-s-k.

24 Q Where do you live, Mr. Tusk?

:18PM

25 A I live in New York.

Tusk - direct by Schar

2264

1 Q what do you do for a living?

2 A I'm a what is a political consultant.

3 Q what does that mean?

4 A It means I help candidates and issues generally
:18PM run campaigns.

6 Q what is your educational background?

7 A I have a BA from the University of Pennsylvania
8 and a JD from the University of Chicago.

9 Q what did you do after graduating from law school?

:18PM 10 A I worked at the New York City Parks Department
11 for the Commissioner.

12 Q At some point did you come to take a job in
13 Chicago?

14 A I did.

:19PM 15 Q Approximately when?

16 A In 2003.

17 Q what job did you take?

18 A I was the Deputy Governor of the State of
19 Illinois.

:19PM 20 Q Under Rod Blagojevich's administration?

21 A Yes.

22 Q How long were you Deputy Governor of the State of
23 Illinois?

24 A Just under 4 years.

:19PM 25 Q When did you leave?

Tusk - direct by Schar

2265

1 A In December of 2006.

2 Q How did you learn about the Deputy Governor's
3 position in Illinois?

4 A I was contacted about it by a former colleague
5 named John Wyma.

:19PM 6 Q How did you know Mr. Wyma?

7 A We worked together in Senator Schumer's office in
8 Washington, D.C.

9 Q Who is Senator Schumer?

:19PM 10 A He's a United States Senator from New York.

11 Q At the time that you heard about the job as
12 Deputy Governor, what job did you have?

13 A I was Special Assistant to Mayor Bloomberg in New
14 York City.

:19PM 15 Q Did you ultimately come to interview for the
16 position of Deputy Governor?

17 A I did.

18 Q About when?

19 A In February of 2003.

:20PM 20 Q Where did you come to?

21 A Flew to Chicago.

22 Q With whom did you meet?

23 A Initially I met -- ultimately met with the
24 Governor, but before that my first meeting was with
25 Mr. Wyma and Chris Kelly.

:20PM

Tusk - direct by Schar

2266

1 Q Where did the meeting with Mr. Wyma and Chris
2 Kelly take place?

3 A It took place at the East Bank Club in Chicago.

4 Q Did you know who Chris Kelly was at that time?

:20PM

5 A Only from Mr. Wyma's description.

6 Q What was Mr. Wyma's description?

7 A That he was a roofer and a supporter of the
8 Governor's.

:20PM

9 Q Did you know why you were meeting with Mr. Kelly
10 about the Deputy Governor job?

11 A Not specifically, other than I assumed his
12 opinion mattered to the people making the decision.

13 Q What did you and Mr. Kelly -- or what happened in
14 the interview with Mr. Kelly?

:20PM

15 A We just talked generally. I remember
16 specifically him asking about New York City
17 government and politics and specifically a lot of
18 questions about Mayor Giuliani and how he ran his
19 administration.

:20PM

20 Q Did you actually work for Mayor Giuliani?

21 A I did not, no.

22 Q After talking to Mr. Kelly, do you remember what
23 happened next?

:21PM

24 A I then went to the Thompson Center for a meeting
25 with Governor Blagojevich, Lon Monk, and there might

Tusk - direct by Schar

2267

1 have been a few others, I'm not sure.

2 Q Did you interview at that time with Defendant
3 Blagojevich, Mr. Monk, and others?

4 A Yes, I did.

:21PM

5 MR. SCHAR: Is there a stipulation on
6 identification?

7 MR. GOLDSTEIN: So stipulated.

8 THE COURT: So stipulated.

9 BY MR. SCHAR:

:21PM

10 Q Were you ultimately offered the job as Deputy
11 Governor?

12 A Yes, I was.

13 Q Did you take the job?

14 A I did.

:21PM

15 Q Did you move you and your family to Chicago?

16 A Yes.

17 Q What were your job responsibilities when you
18 started as the Deputy Governor?

:21PM

19 A I oversaw policy, communications, budget and
20 legislation for the State.

21 Q What responsibilities did you have in relation to
22 legislative matters?

23 A I was responsible for the legislative process.

24 Q What does that mean?

:21PM

25 A It meant I oversaw both our legislative agenda to

Tusk - direct by Schar

2268

1 try to help make sure they passed and then oversaw
2 the bill review process for those approximately 5 or
3 600 bills that would pass each session.

4 Q When you say the bill review process, what are
:22PM
5 you referring to?

6 A I'm referring to a process that takes place after
7 the session when all the bills are passed or
8 compiled. There is a full review done of each bill
9 to determine whether or not it should be signed or
10 vetoed.

11 Q What did you do in the context of that process in
12 deciding whether to sign or not sign the bill?

13 A I oversaw the process and ultimately either made
14 the decision or help make the decision on what to
15 do.

16 Q When you say you made the decision what to do
17 with them, what decision were you making, Mr. Tusk?

18 A Whether to sign a bill which would enact it into
19 law or to veto the legislation which would then send
20 it back to the legislature.

21 Q Why weren't you taking those decisions to
22 Defendant Rod Blagojevich?

23 A Well, I did sometimes and tried to, but it's a
24 lengthy process, there are 5 or 600 bills, and he
25 wasn't always engaged in the process, so the task

:22PM

Tusk - direct by Schar

2269

1 fell to me.

2 Q How often was Defendant Blagojevich in the
3 office?

4 A Initially when I started working there, he was
5 there pretty regularly and then that fell off over
6 time and I'd say about the summer or fall of 2003
7 not frequently at all.

8 Q Were there times when you would check with
9 Defendant Blagojevich before signing a bill?

10 A Yes; sometimes.

11 Q What would be such an occasion?

12 A Generally if it was an issue that that was
13 prominent in the media or if it were an issue that
14 was part of our legislative agenda.

15 Q Were you always able to check with Defendant
16 Blagojevich before you had to make a decision as to
17 whether to sign a bill?

18 A No, there was a, I believe, 60-day window between
19 when the bill was passed and when it had to be acted
20 upon and I was not always able to check with him.

21 Q What did you do in a situation where you could
22 not actually check with Defendant Blagojevich as to
23 whether to sign the legislation?

24 A I made the decision to move forward.

25 Q Did you sometimes have to track Defendant

Tusk - direct by Schar

2270

1 Blagojevich down at certain locations?

2 A I did, yes.

3 Q Where would you track him down?

4 A On the phone wherever he was or meet him in
5 various places.

:23PM 6 MR. GOLDSTEIN: Objection.

7 THE COURT: The answer may stand.

8 BY MR. SCHAR:

9 Q Did you have any recollection of locations?

:24PM 10 A I do.

11 Q Where?

12 A I remember once instance at his tailor's shop and
13 another one at his daughter's haircut.

14 Q Were some bills vetoed?

:24PM 15 A Yes.

16 Q What does it mean to veto a bill?

17 A It means to reject it, which means it will not be
18 enacted into law, and then it goes back to the
19 legislature in which case they can either override
20 the Governor's veto with I think a three-fifths
21 majority or not and the bill does not place.

22 Q Did you try to check with Defendant Blagojevich
23 before making a decision yourself on vetoing a bill?

24 A Yes.

:24PM 25 Q Were you always able to do that?

Tusk - direct by Schar

2271

1 A Not always.

2 Q what would happen if you were not able to check
3 with the defendant?

4 A Ultimately a decision had to be made otherwise.

:24PM

5 Q Who made that decision?

6 A Me.

7 Q Now, in your time as Deputy Governor did you
8 attend any strategy meetings outside the Thompson
9 Center?

:24PM

10 A Yes.

11 Q What was -- could you explain to us briefly what
12 a strategy meeting was.

:25PM

13 A It a generally quarterly session where the
14 Governor and his top advisers would get together,
15 talk about the legislative agenda coming up, the
16 policy agenda, big media issues, and try to plan out
17 the next few months.

:25PM

18 Q Where did these meetings typically occur?

19 A At different locations. Sometimes the Standard
20 Club, sometimes at the Governor's campaign office.

:25PM

21 Q Approximately how many, ballpark, how many do you
22 recall attending?

23 A I believe I was at every one from my tenure. So
24 if they happen roughly four times a year, figure
25 approximately 15.

Tusk - direct by Schar

2272

1 Q what type of topics were discussed at these
2 meetings?

3 A The budget, the policy agenda, the legislative
4 agenda, major media issues and initiatives.

:25PM

5 Q Who was typically present for these strategy
6 meetings?

:26PM

7 A From the Governor's side generally myself, the
8 Chief of Staff, often the policy adviser, press
9 secretary. From the Governor's political team, his
10 pollster, his main media consultant, generally one
11 or two state legislators, and then sometimes Chris
12 Kelly, Tony Rezko and others.

:26PM

13 Q Were Mr. Rezko and Mr. Kelly officially members
14 of the office of the Governor?

:26PM

15 A No, they were not.

16 Q Do you know what role they had?

17 A They had no formal role.

18 Q In your role as Deputy Governor, did you come to
19 have involvement with the State of Illinois grants
20 to the Academy for Urban School Leadership sometimes
21 referred to as the Chicago Academy?

22 A Yes.

23 Q What is the first thing you remember about the
24 AUSL grant?

:26PM

25 A I remember there was a press conference to

Tusk - direct by Schar

2273

1 announce it I think in the fall of 2005.

2 Q Do you recall how much the grant was for
3 originally?

4 A I believe it was for \$2 million.

:26PM

5 Q What role, if any, did you have in relation to
6 the press conference?

:27PM

7 A I was asked who should attend and I remember
8 asking or having Randy Dunn who at the time was the
9 State Superintendent of Schools to attend the press
10 conference.

11 Q Mr. Tusk, were you in any way involved in the
12 actual decision-making for the grant?

13 A No, I was not.

:27PM

14 Q What was the grant for?

15 A It was for an athletic facility at the Chicago
16 Academy.

17 Q To your knowledge, had Defendant Blagojevich
18 agreed to fund that grant?

19 A Yes.

:27PM

20 Q At the time that the grant was announced, did you
21 know Congressman Emanuel?

22 A I did.

23 Q How did you know him?

:27PM

24 A He was a congressman from Chicago, support of the
25 Illinois delegation, and worked with our office on

Tusk - direct by Schar

2274

1 various initiatives.

2 Q Was a 2 million-dollar grant a particularly large
3 grant for the office of the Governor?

4 A No, it was not.

:27PM

5 Q Approximately how much money was in the
6 grant-making pool?

7 A Generally several -- several hundred million
8 dollars at any given time.

:27PM

9 Q After the press conference where the AUSL grant
10 was announced, did you have much involvement in the
11 grant process during the first part of 2006?

12 A No, not that I recall.

13 Q At some point did that change?

14 A It did.

:28PM

15 Q About when?

16 A I believe in the summer of 2006.

17 Q What happened in the summer of 2006?

:28PM

18 A I started hearing from Congressman Emanuel and
19 from his staff about the timing of the release of
20 the grant.

21 Q Prior to getting those calls, were you aware that
22 there was an issue with the grant?

23 A I was not, no.

24 Q Was there one call or multiple calls?

:28PM

25 A Multiple calls.

Tusk - direct by Schar

2275

1 Q Did you have any meetings in person or always
2 over the phone?

3 A I don't recall any meetings in person.

4 Q Do you recall each conversation individually or
:28PM generally collectively?

6 A Just collectively.

7 Q what was discussed?

8 A Specifically the timing of the release of the
9 grant and financial obligations that the Academy had
10 incurred and therefore their need to be paid
11 quickly.

12 Q what was your response?

13 A That I would look into it and try to help them.

14 Q Did you look into it?

:28PM 15 A I did.

16 Q Who did you go to talk to?

17 A I remember talking to John Filan.

18 Q And after talking to John Filan, did you go and
19 have a conversation with Defendant Blagojevich?

:29PM 20 A I did.

21 Q Approximately when was that conversation?

22 A I believe it was in the late summer or early fall
23 of 2006.

24 Q At this point were you still getting phone calls
25 about the release of the money?

Tusk - direct by Schar

2276

1 A Yes, I was.

2 Q Your conversation with Defendant Blagojevich, was
3 that in person or over the phone?

4 A It was over the phone.

:29PM

5 Q Where were you?

6 A I was at home.

7 Q What was the purpose of the phone call?

:29PM

8 A Well, probably discussed a number of items, but
9 one of them was clearly for me to convey the issue
10 at hand that Congressman Emanuel was very upset that
11 the funding had not been released.

12 Q Funding for what?

13 A For the Chicago Academy.

:29PM

14 Q What did you tell Defendant Blagojevich in the
15 conversation?

16 A That Congressman Emanuel is very upset, saying
17 that these expenses had been incurred and the school
18 couldn't meet its obligations, he wanted the money
19 released, and I let him know that.

:30PM

20 Q What was Defendant Blagojevich's response?

21 A He said that before the grant could be released
22 he wanted Congressman Emanuel's brother to hold a
23 fundraiser for him.

:30PM

24 Q When Defendant Blagojevich said words to the
25 effect of before the grant could be released he

Tusk - direct by Schar

2277

1 wanted Congressman Emanuel to hold a fundraiser,
2 what did you understand him to be telling you?
3 A I understood that he was saying that the grant
4 would not be released unless a fundraiser was first
5 held.

:30PM
6 Q what was your understanding as to whether
7 Defendant Blagojevich wanted that message delivered?

8 A I believe he did want it delivered.

9 Q who did you understand he wanted it delivered to?
10 A To Congressman Emanuel.

11 Q Mr. Tusk, did you know who Congressman Emanuel's
12 brother is or was?

13 A Yes, I did.

14 Q who is Congressman Emanuel's brother?

:31PM
15 A His Ari Emanuel. He's a Hollywood agent.

16 Q Did you understand him to be a fairly wealthy
17 individual?

18 A Yes, I did.

19 Q when Defendant Blagojevich indicated to you that
20 he wanted a message delivered to Congressman Emanuel
21 that the funding would be released when Congressman
22 Emanuel's brother held a fundraiser, what was your
23 response?

24 A I got off the phone as quickly as I could.

:31PM
25 Q Did you deliver Defendant Blagojevich's message

Tusk - direct by Schar

2278

1 that in order to get the AUSL money released
2 Congressman Emanuel's brother was going to have a
3 fundraiser?

4 A No, I did not.

:31PM

5 Q Why not?

6 A Because I believed that doing that would be both
7 illegal and unethical.

8 Q When you say illegal, you are a lawyer by
9 training, correct?

:31PM

10 A Yes, I am.

11 Q Did you ever practice criminal law?

12 A No, I have not.

13 Q In fact, within your duties with the office of
14 the Governor, did you have any legal duties?

:32PM

15 A No, I did not.

16 Q Were you a legal adviser in any way?

17 A No, I was not.

18 Q Do you even know one way or the other, in fact,
19 whether or not it would be illegal to do that?

:32PM

20 A Not based on law, no.

21 Q What did you do after your conversation with
22 Defendant Blagojevich?

23 A I made two phone calls.

:32PM

24 Q Do you remember if it was the same day or shortly
25 thereafter?

Tusk - direct by Schar

2279

1 A It was the same day.

2 Q who did you contact first?

3 A I contacted John Wyma.

4 Q why did you contact John Wyma?

:32PM

5 A I contacted John because I knew that that he's
6 close with both Governor Blagojevich and with
7 Congressman Emanuel and it seemed to me that if
8 somebody were going to communicate that request, I
9 was concerned that John would be asked to do that,
10 and so I wanted to get to him first and make sure he
11 knew not to do it.

:32PM

12 Q And when you say John would be asked to do that,
13 who did you think was going to ask him to do that?

14 A The Governor.

:32PM

15 Q what did you -- did you, in fact, talk to
16 Mr. Wyma that evening or later that day?

17 A Yes, I did.

18 Q what did you and Mr. Wyma discuss?

:33PM

19 A I relayed my conversation with him and told him
20 he needed to make sure that it did not happen.

21 Q what was Mr. Wyma's response?

22 A He agreed.

23 Q You said you made two calls. Was there another
24 call that day?

:33PM

25 A Yes, there was.

Tusk - direct by Schar

2280

1 Q who was the next call to?

2 A I called Bill Quinlan. Bill at the time was the
3 general counsel and I believe the chief ethics
4 officer for the Governor's office.

:33PM

5 Q what did you explain to Mr. Quinlan?

6 A It was similar to the conversation with Mr. Wyma.
7 I let him know what had transpired, and said that he
8 needed to make sure it didn't happen, and that in
9 his capacity as Chief Ethics Officer he needed to
10 know about it.

:33PM

11 Q what specifically do you remember telling him
12 about what it is you thought he should do?

13 A That he should put a stop to it. I used the
14 phrase, "you need to get your client under control."

:33PM

15 Q what was Mr. Quinlan's response?

16 A He said he would take care of it.

17 Q Do you know what, if anything, he actually did?

18 A No, I do not.

:34PM

19 Q Did you ever raise the issue with Mr. Quinlan
20 again?

21 A No, I did not.

22 Q Did you ever raise the issue of the AUSL grant
23 again with Defendant Blagojevich?

24 A No, I did not.

:34PM

25 Q why not?

Tusk - direct by Schar

2281

1 A Because I didn't want what he had proposed to
2 happen, so the last thing I wanted to do is re-raise
3 the issue and make it a possibility again.

4 Q At that point you basically tried to distance
:34PM yourself from the AUSL grant?

6 A Yes, I did.

7 Q who was ultimately put in charge of authorizing
8 payments for the grant?

9 A John Harris.

:34PM 10 Q What was the process that was put in place, to
11 your knowledge?

12 A To my knowledge, as expenses were incurred and
13 documentation received, Harris would then order the
14 release of money to cover that amount.

15 Q Is there anything unusual about that, to your
16 knowledge?

17 A Yeah, it was unusual.

18 Q What was unusual about that?

19 A I thought it was unusual for two reasons; one --
:34PM MR. SOROSKY: Objection to what he thought.

21 MR. SCHAR: 701, Judge.

22 THE COURT: Overruled.

23 BY THE WITNESS:

24 A I thought it was unusual for two reasons: First,
25 that the Governor's Chief of Staff would be dealing

Tusk - cross by Sorosky

2282

1 so specifically with one grant; and, second, that it
2 was parceled out as opposed to just being given in
3 one full amount.

4 MR. SCHAR: May I have a moment, Judge?
5 (Brief pause).

6 BY MR. SCHAR:

7 Q Mr. Tusk, when you say it was unusual that the
8 Chief of Staff be involved. Does the Chief of Staff
9 to the Governor of the State of Illinois typically
10 get involved in a 2 million-dollar grant?

11 A No, not to my experience.

12 Q Does he typically get involved in releasing
13 partial payments on a 2-million-dollar grant?

14 A Not to my experience.

15 MR. SCHAR: Nothing further.

16 THE COURT: You may inquire.

17 CROSS EXAMINATION

18 BY MR. SOROSKY:

19 Q Hello, Mr. Tusk. How are you?

20 Good to see you.

21 A Hi, Mr. Sorosky.

22 Q You don't mind if I call you Bradley, do you? Or
23 Brad?

24 A No, I do not.

25 Q Thank you.

Tusk - cross by Sorosky

2283

1 Now, I believe you were appointed Deputy
2 Governor in March of 2003, is that correct?

3 A Yes, sir.

4 Q And you served as Deputy Governor for
:36PM approximately 4 years, would that be correct?

5 A Yes, sir.

6 Q So you were basically the Deputy Governor for the
7 first term or the first 4 years of the Blagojevich
8 administration, correct?

:36PM 9 A Yes, sir.

10 Q Now, I believe you said you went to the
11 University of Pennsylvania for your undergraduate
12 degree, is that correct?

13 A Yes, sir.

:37PM 14 Q In fact, that would be an elite ivy league
15 school, would it not?

16 A Yes, sir.

17 Q And thereafter you went to the University of
18 Chicago Law School, did you not?

:37PM 19 A I did.

20 Q And that is, literally, of all the law schools in
21 the country of the United States, that's in the top
22 ten, is it not?

23 A I believe it is, yes.

:37PM 24 Q And before you worked for Governor Blagojevich,

Tusk - cross by Sorosky

2284

1 you worked for Senator Schumer of New York, that is
2 United States Senator Schumer, did you not?

3 A I did.

4 Q And he certainly is a very prominent Democratic
5 senator, is he not?

6 A He is.

7 Q And after Senator Schumer you worked for Mayor
8 Bloomberg of New York, did you not?

9 A I did.

10 Q At the time he was a very prominent independent
11 Republican, was he not?

12 A Yes, sir.

13 Q And after those jobs, you interviewed for the job
14 of Deputy Governor, did you not?

15 A I did.

16 Q And you didn't have any local political sponsor
17 for your job, did you?

18 A No, I did not.

19 Q You didn't know Mayor Daley, did you?

20 A No, I did not.

21 Q You didn't know Speaker Madigan, did you?

22 A No, I did not.

23 Q You didn't know any Chicago aldermen, did you?

24 A No, I did not.

25 Q So when Governor Blagojevich hired you, he truly

:37PM

:38PM

:38PM

:38PM

:38PM

Tusk - cross by Sorosky

2285

1 hired an independent intelligent young man, did he
2 not?

3 A I like to think so, yes.

4 Q And I believe you said that you looked over
:39PM 5 budget issues, would that be correct?

6 A Yes.

7 Q Legislative issues?

8 A Correct.

9 Q Communication issues?

:39PM 10 A Yes.

11 Q And policy matters?

12 A Yes, sir.

13 Q And in the course of your duties regarding
14 legislative matters, I believe that you said that
:39PM 15 you reviewed 400 to 500 bills each year that passed
16 the legislature, did you not?

17 A Yes.

18 Q And you had a group of people under you, a policy
19 group, that you worked with to review those bills,
:39PM 20 did you not?

21 A Yes.

22 Q And very often there were as many as 40 to 50
23 people studying these bills and analyzing these
24 bills, right?

25 A It could be up to that many. That's slightly on

Tusk - cross by Sorosky

2286

1 the high side.

2 Q And would you say that Governor Blagojevich was
3 sort of a big picture guy and not an nitty-gritty
4 detailed guy, would that be a fair assessment of
5 him?

:40PM 6 A It would.

7 Q So one of the reasons why he hired a bright young
8 man like you is, you were to be the nitty-gritty
9 guy, right? While he did the big picture work?

10 THE COURT: Are you objecting?

11 MR. SCHAR: I am.

12 THE COURT: No mind reading. The objection
13 is sustained.

14 MR. SOROSKY: I apologize.

:40PM 15 BY MR. SOROSKY:

16 Q Now, and I believe you said that very often you
17 alone decided to approve these bills because you
18 felt they would be in accord with Governor
19 Blagojevich's position, would you not?

20 MR. SCHAR: Objection.

21 THE COURT: The objection to the form of the
22 question is sustained.

23 BY MR. SOROSKY:

24 Q You approved many of these bills based upon your
25 own belief that they would be in accord with

:41PM

Tusk - cross by Sorosky

2287

1 Governor Blagojevich's position, did you not?

2 A Yes.

3 Q And Governor Blagojevich never said to you: Hey,
4 before we approve any of these bills, let's make
5 sure we get a contribution from someone who might be
6 favored by these bills, did he?

7 MR. SCHAR: Objection, Judge.

8 THE COURT: The objection is sustained.

9 BY MR. SOROSKY:

10 Q Did Governor Blagojevich ever say to you:
11 Bradley, come to me with any bill that might favor a
12 certain group so we could get a contribution out of
13 them, I want to get that contribution before we sign
14 that bill?

15 MR. SCHAR: Objection.

16 THE COURT: Sustained.

17 (Brief pause)

18 THE COURT: I sustained it.

19 MR. SOROSKY: Oh. Sorry.

20 BY MR. SOROSKY:

21 Q Now, did the Governor ever say to you: I'm not
22 approving a certain bill unless I get a contribution
23 from a party?

24 MR. SCHAR: Objection.

25 THE COURT: The objection is sustained.

Tusk - cross by Sorosky

2288

1 BY MR. SOROSKY:

2 Q Now, many of these bills were sponsored by some
3 of Governor Blagojevich's opponents, were they not?

4 A Yes.

:42PM

5 Q Did Governor Blagojevich ever refuse to sign a
6 bill that was good merely because it was sponsored
7 by an opponent?

8 MR. SCHAR: Objection.

9 THE COURT: Sustained.

:42PM

10 BY MR. SOROSKY:

11 Q Now, were you working in the Governor's Office as
12 Deputy Governor when the pension obligation bond
13 legislation was approved?

14 MR. SCHAR: Objection; scope.

:43PM

15 THE COURT: It's outside the scope.

16 BY MR. SOROSKY:

17 Q Now, let's turn to the Chicago Academy, because
18 that seems to be what the meat and potatoes of your
19 testimony is about; okay?

:43PM

20 Now, in the years that you were Deputy
21 Governor, how often did you talk to Governor
22 Blagojevich? Once a day? Ten times a day? What
23 would you say?

24 A Many times a day.

:44PM

25 Q You talked to the Governor many times a day,

Tusk - cross by Sorosky

2289

1 right?

2 A Yes, sir.

3 Q And would it be accurate to say that the Governor
4 was a very talkative person?

:44PM

5 A Yes, it would be.

6 Q It would be inaccurate to say the Governor was a
7 shy person?

8 A It would be inaccurate to say that.

:44PM

9 Q He's certainly expressive, is he not?

10 A He is.

:45PM

11 Q And once in a while he says things and blows off
12 a lot of steam, doesn't he?

13 A Yes.

14 Q And when you worked with the Governor, didn't you
15 come to know that the Governor once in a while would
16 be very expressive and say certain things and just
17 sort of took it with a grain of salt and didn't take
18 it that seriously?

:45PM

19 A Yes.

20 Q Were you familiar with the relationship between
21 Governor Blagojevich and Congressman Emanuel?

22 A Yes, I was.

23 Q It was a good relationship, was it not?

:45PM

24 A Yes, it was.

25 Q And Congressman Emanuel was someone that Governor

Tusk - cross by Sorosky

2290

1 Blagojevich truly had respect for, did he not?

2 A I believe he did.

3 Q And Governor Blagojevich would always be willing
4 to take Congressman Emanuel's phone calls, would he
5 not?

:46PM 6 A I don't know about always, but he took his calls.

7 Q He took his calls much more so than he took other
8 prominent people's calls, did he not?

9 A Yes; definitely.

:46PM 10 Q So if Governor Blagojevich wanted something from
11 Congressman Emanuel, he certainly could call him up
12 and ask for it, couldn't he?

13 MR. SCHAR: Objection.

14 THE COURT: He can answer this.

:46PM 15 BY THE WITNESS:

16 A I suppose he could.

17 BY MR. SOROSKY:

18 Q Now, you had some familiarity with this grant for
19 the school, did you not?

:47PM 20 A Some; yes.

21 Q And there was nothing out of the ordinary or
22 unusual about the request for this grant, was there?

23 A No.

24 Q And there was nothing out of the ordinary or

:47PM 25 unusual about Governor Blagojevich approving this

Tusk - cross by Sorosky

2291

1 grant, was there not?

2 A No.

3 Q Now, I believe you said that one of your areas of
4 concentration was in budgetary matters, was it not?

:47PM

5 A Yes.

6 Q And I believe you said this grant was approved in
7 originally the fall of 2005, is that correct?

8 A Yes.

:47PM

9 Q And by the spring and summer of 2006, the money
10 was actually needed to fund this grant, is that
11 correct?

12 A Yes.

:48PM

13 Q Could you tell the ladies and gentlemen of the
14 jury how much in debt the State was at this period
15 of time, approximately?

16 A This was 2006 and I actually believe that we
17 entered that year without a budget deficit. From my
18 recollection, I don't believe we had a budget
19 deficit that year, sir.

:48PM

20 Q No budget deficit that year?

21 A To the best of my recollection, I believe that
22 year we did not have one.

:48PM

23 Q So now how besieged was the State to pay out all
24 sorts of requests for good things like this school?
25 Wasn't the State constantly bombarded for requests

Tusk - cross by Sorosky

2292

1 similar to the Chicago Academy from all kinds of
2 people?

3 MR. SCHAR: Objection.

4 THE COURT: You're dealing with -- you're
5 confusing two things in this particular case. I'm
6 sustaining the objection.

7 BY MR. SOROSKY:

8 Q Were the State's limited budgetary resources
9 constantly bombarded for legitimate requests?

10 MR. SCHAR: Objection.

11 THE COURT: What you're talking about is a
12 general state of affairs, what's at issue here is a
13 grant that had already been approved. And if you
14 want to ask him about refusals of grants that had
15 already been granted, that would have some
16 relevance.

17 MR. SOROSKY: Thank you, Your Honor.

18 BY MR. SOROSKY:

19 Q There was a big press conference where this grant
20 was approved, right?

21 A Where it was announced, yes.

22 Q And there are many other grants that were also
23 approved by the State on other important needs,
24 correct?

25 MR. SCHAR: Objection.

Tusk - cross by Sorosky

2293

1 THE COURT: The objection is sustained.

2 BY MR. SOROSKY:

3 Q Was the State -- did the State budget have to
4 struggle and find money to fulfill all these
5 necessary grants?

6 MR. SCHAR: Objection.

7 THE COURT: The objection is sustained.

8 BY MR. SOROSKY:

9 Q Now, I believe you first became aware -- or when
10 did you first become aware that there might be a
11 problem with funding this grant, approximately?

12 A From what I recall, the summer of 2006.

13 Q And how many phone calls did you receive not from
14 Congressman Emanuel, but from his office?

15 A I don't recall the specific number, but many.

16 Q Many?

17 A Yes, sir.

18 Q And, basically, the calls were saying where's our
19 money for this grant, correct?

20 A Yes.

21 Q So after receiving many calls on this topic, you
22 finally one day spoke over the phone with Governor
23 Blagojevich about it, correct?

24 A Yes.

25 Q And you explained the issue to Governor

:50PM

:50PM

:51PM

:51PM

:51PM

Tusk - cross by Sorosky

2294

1 Blagojevich about the school being given a grant and
2 the Congressman's office was calling wanting to know
3 why the grant wasn't being funded, correct?

4 A Yes.

:52PM

5 Q And I believe you said this conversation that you
6 had with the Governor was over the telephone, is
7 that correct?

8 A Yes.

:52PM

9 Q And the Governor was home at the time, right?

10 A I don't recall where he was. I was at home.

11 Q You were at home?

12 A Yes, sir.

13 Q So you worked a full day, right? Did you not?

14 A I presumably did, yes.

:52PM

15 Q In fact, you worked sometimes 10, 12 hours a day,
16 did you not?

17 A I did.

18 Q So if you were calling from your House, it
19 probably was late at night, is that correct?

:52PM

20 A I recall the call being in the evening, yes.

21 Q Pardon me?

22 A I recall the call took place in the evening.

23 Q Late in the evening, right?

24 A I don't know what time in the evening.

:53PM

25 Q But it was in the evening?

1 A Yes.

2 Q After regular daytime working hours, right?

3 A Yes.

4 Q And so the Governor was either at home or perhaps
5 :53PM at some function, is that correct?

6 A I'm not sure where he was.

7 Q And the Governor really wasn't concentrating on
8 this issue at the time, was he?

9 MR. SCHAR: Objection.

10 :53PM THE COURT: They were in different places, so
11 now we have mind reading over the telephone and
12 maybe you could not ask that question.

13 BY MR. SOROSKY:

14 Q And after you related this issue about the school
15 :53PM and the grant not being funded, did not the Governor
16 say, "where's my fundraiser? Tell Ron to have his
17 brother to have a fundraiser," isn't that what the
18 Governor said?

19 A Something along those lines, yes.

20 :54PM Q I'll repeat that, "where is my fundraiser? Tell
21 Ron to have his brother have a fundraiser," isn't
22 that what the Governor said?

23 MR. SCHAR: Objection; asked and answered.

24 THE COURT: Overruled. He can answer.

25 :54PM BY MR. SOROSKY:

Tusk - cross by Sorosky

2296

1 Q I'll repeat it again. Didn't the Governor say:
2 One: "where is my fundraiser?" Two: "Tell Ron to
3 have his brother have a fundraiser"?

4 MR. SCHAR: That is actually not an accurate
5 statement. Objection.

6 MR. SOROSKY: The "one" and the "two" is
7 mine, I took the poetic line, but other than
8 the numbers "one" and "two" --

9 THE COURT: Rephrase it.

10 BY MR. SOROSKY:

11 Q Didn't the Governor say, "where is my fundraiser"
12 and "tell Ron to have his brother have a
13 fundraiser," isn't that what the Governor said?
14 A Something along those lines, that's all I recall
15 him saying.

16 Q Let me ask you, in March of -- in March of 2009,
17 you came in from New York to Chicago to testify in
18 the grand jury, did you not?

19 MR. SCHAR: I'm going to object. It's not
20 impeaching. Grand jury statement states "words to
21 the effect of" and then the quotes.

22 THE COURT: Let me see it.

23 (Brief pause).

24 THE COURT: Not impeaching. Sustained.

25 BY MR. SOROSKY:

Tusk - cross by Sorosky

2297

1 Q Now, today you said just ten minutes ago that the
2 Governor said before the grant could be released, I
3 wanted a fundraiser, isn't that what you said today?

4 A No, what I said --

:56PM

5 Q Or words to that effect?

6 A I said --

7 Q That's exactly what you said, but isn't that what
8 you said --

9 THE COURT: Wait. Wait. Wait. Wait.

:56PM

10 MR. SOROSKY: I apologize.

11 THE COURT: He started answering, it's our
12 custom to let him finish.

13 MR. SOROSKY: I apologize.

14 BY THE WITNESS:

:56PM

15 A I was asked what transpired in the direct
16 examination in the conversation and answer the
17 question by saying what the Governor communicated to
18 me was in return for the grant to be released he
19 wanted a fundraiser to take place.

:57PM

20 BY MR. SOROSKY:

21 Q Slow down. Just say it slower.

22 A Sure. I was asked in the direct examination what
23 transpired on the phone call.

24 Q Correct.

:57PM

25 A And what I said was that --

Tusk - cross by Sorosky

2298

1 Q slowly.

2 A what the Governor said to me was that he wanted a
3 fundraiser to take place in order for the grant to
4 be received.

:57PM

5 Q So he wanted -- so what you said today was, he
6 wanted a fundraiser to be had before the grant could
7 be released?

8 A Correct.

:57PM

9 Q okay. He wanted a fundraiser to be had before
10 the grant could be released, but before the grand
11 jury you said "where's --"

12 MR. SCHAR: Objection.

13 MR. SOROSKY: "Where's my fundraiser."

14 THE COURT: Wait. Wait. Wait.

:57PM

15 We're dealing with "words to the effect" and
16 that's not impeaching. I'm sustaining the
17 objection.

18 BY MR. SOROSKY:

:58PM

19 Q Now, you said that you thought this was illegal,
20 correct?

21 A Yes.

22 Q Did you quit your job?

23 A No.

:58PM

24 Q Did you call the FBI or the United State's
25 Attorney or Cook County State's Attorney?

Tusk - cross by Sorosky

2299

1 A No, I took what I believe were reasonable
2 steps --

3 Q Yes or no.

4 A -- to deal with the matter.

:58PM

5 Q Yes or no.

6 A No, I did not.

:58PM

7 Q Did you contact the Illinois State Bar
8 Association or the Attorney Registration and
9 Disciplinary Commission? You knew the Governor was
10 a lawyer.

11 A No. As I said on direct, I talked to Mr. Wyma
12 and Mr. Quinlan.

13 Q Do you know a woman by the name of Z. Scott?

14 A Yes.

:58PM

15 Q What position did she have at the time?

16 A I don't know. I'm not sure -- your question I
17 think is to say that she was the Inspector General.
18 I don't know that she still was at the time of the
19 call.

:59PM

20 Q Did you contact the Inspector General's office in
21 the State of Illinois and say we have an impropriety
22 here?

23 A I believe that the proper procedure was to --

24 Q Yes or no, Mr. Tusk?

:59PM

25 A The Chief Ethics Officer is a part of that

Tusk - cross by Sorosky

2300

1 process, that's who I contacted.

2 Q Mr. Tusk, I asked you a question, did you contact
3 the Office of the Inspector General?

4 A No.

:59PM

5 Q So you thought the Governor was doing something
6 illegal but you did not contact any law enforcement
7 office?

8 A No.

:59PM

9 Q You didn't quit your job?

10 A No.

11 Q You knew the Governor was a lawyer, you didn't
12 contact the Attorney Registration and Disciplinary
13 Commission, right?

14 A I did not.

:59PM

15 Q Now, you say the Governor was a very talkative
16 man, right?

17 A He was.

:00PM

18 Q And he certainly used a lot of profanity, did he
19 not?

20 A He did.

21 Q Now, whatever day this conversation occurred, you
22 talked to the Governor regularly for almost the next
23 2 years, correct?

24 A No, I left my job several months after that call.

:00PM

25 Q Okay. You talked to him regularly through the

Tusk - cross by Sorosky

2301

1 next 6, 7 months?

2 A Probably for the next month or so.

3 Q Well, when did you leave your job?

4 A December 2006.

:00PM

5 Q And this conversation occurred in the summer
6 of 2006, right?

7 A Late summer or early fall.

:00PM

8 Q So you talked to him for at least 3 or 4 more
9 months on a daily basis, right?
10 A Towards the end of my tenure, we didn't speak as
11 frequently, but yes, we continued to communicate
12 regularly after this call.

13 Q You spoke to him on a daily basis?

14 A For a while, yes.

:00PM

15 Q Okay. Ever once after that comment did he ever
16 say: Bradley, get on the f'ing phone and call
17 Congressman Emanuel, where is my fundraiser?

18 A No, he did not.

:01PM

19 Q Did he ever say -- I believe you said that
20 Governor Blagojevich had a good friend by the name
21 of John Wyma, is that correct?

22 A Yes.

23 Q And you knew John Wyma was also a good friend of
24 Congressman Emanuel, right?

:01PM

25 A Yes.

Tusk - cross by Sorosky

2302

1 Q And you thought: Oh my God, Governor Blagojevich
2 may ask John Wyma to contact Congressman Emanuel,
3 did you not?

4 A I did.

:01PM

5 Q Now, you spoke to John Wyma regularly, did you
6 not?

7 A I did.

:02PM

8 Q Did John Wyma ever tell you: Bradley, you're
9 right, the Governor called me and asked me to call
10 Congressman Emanuel for that fundraiser? Did that
11 ever happen?

12 A No, Not that I recall.

:02PM

13 Q Is it not that you recall or never?

14 A I don't ever recall a conversation like that
15 taking place.

:02PM

16 Q Isn't that the same as saying it never happened?

17 A I don't recall that conversation taking place.

18 Q wouldn't you recall that?

19 A I -- I do not recall that conversation taking
20 place.

:03PM

21 Q Did you ever hear Governor Blagojevich order or
22 ask anyone to call Congressman Emanuel to tell the
23 Congressman: Look, if you want this grant to go to
24 the school, you or brother would have to set up a
25 fundraiser for me?

Tusk - cross by Sorosky

2303

1 A No.

2 Q And I believe you said you talked to Bill Quinlan
3 about this matter, did you not?

4 A I did.

:03PM

5 Q And Bill Quinlan was legal counsel to the
6 Governor, was he not?

7 A Yes.

8 Q And you talked to Bill Quinlan when you were
9 Deputy Governor regularly, did you not?

:03PM

10 A Yes.

11 Q And you and Quinlan probably talked to each other
12 ten times a day, did you not?

13 A Yes.

:03PM

14 Q And was not one of your topics: oh, there's
15 Blagojevich again shooting off his mouth, what could
16 we do about it? Didn't that regularly occur between
17 Quinlan and you?

18 MR. SCHAR: Objection, Judge.

:03PM

19 THE COURT: Sustained to the form of the
20 question.

21 BY MR. SOROSKY:

:04PM

22 Q When you told this to Bill Quinlan, didn't he
23 say: oh, that's just him talking again, it's
24 nothing, I'll talk to him about it? Isn't that what
25 Bill Quinlan said?

Tusk - cross by Sorosky

2304

1 A No, not that I recall.

2 Q Didn't he say: I'll take care of it, don't worry
3 about it, it's nothing?

4 A He said he would take care of it, I don't recall
:04PM him saying that it was nothing.

6 Q Now, I believe you said that it was your
7 understanding of the Governor's statement that the
8 Governor wanted communicated to Rahm Emanuel that
9 Rahm Emanuel's brother needed to do a fundraiser in
10 order for the grant to be enacted, right?
:05PM

11 A Yes.

12 Q That was your understanding of the Governor's
13 statement?

14 A Yes.

15 Q Yet, you don't know of anyone who ever said to
16 Congressman Emanuel: Hey, Congressman, you want the
17 grant to go to the school, do a fundraiser? Do you
18 know of anyone who communicated that to the
19 Congressman on behalf of the Governor?
:05PM

20 A No, I do not.

21 Q And as we said, the Governor is certainly not a
22 shy, untalkative person, is he?

23 A He is not untalkative.

24 Q And he certainly gave a lot of orders when he was
25 Governor, didn't he?
:05PM

Tusk - cross by Sorosky

2305

1 A Yes.

2 Q You were the subject of those orders, were you
3 not?

4 You were someone who he would tell to do
:05PM things, did he not?

5 A Yes.

6 Q And he never told you after that conversation to
7 call Congressman Emanuel to get that fundraiser in
8 return for the grant, did he?
:06PM

9 A No.

10 Q Now, I believe you said you received many, many
11 calls, or many calls, from Congressman Emanuel's
12 office asking for the money to be funded for the
13 school, right?
:06PM

14 A Yes.

15 Q And the money was funded for the school, was it
16 not?

17 A It was.

18 Q Yet, there was not one call to Congressman
19 Emanuel to say: Hey, if you want the grant money to
20 go to the school, you gotta do a fundraiser, right?
21 :06PM

22 MR. SCHAR: Objection.

23 MR. SOROSKY: The objection is sustained.

24 BY MR. SOROSKY:

25 Q Do you know of one call to Congressman Emanuel
:07PM

Tusk - cross by Sorosky

2306

1 from the Governor or any of the Governor's agents
2 saying: Congressman, you want the grant money to go
3 to the school, we gotta have the fundraiser? Do you
4 know one call like that?

:07PM

5 A No, I do not.

6 Q So is this whole thing just in one late-night
7 conversation the Governor blowing off some steam:
8 where is my fundraiser? Tell Ron's brother have a
9 fundraiser?

:07PM

10 MR. SCHAR: Objection.

11 THE COURT: You can save the argument for the
12 closing part of it.

13 MR. SOROSKY: Maybe we will.

14 One moment.

:07PM

15 (Brief pause).

16 BY MR. SOROSKY:

17 Q Now, in the year 2003, you were Deputy Governor,
18 were you not?

19 A Yes.

:08PM

20 Q Was there an ethics law passed in 2003 under
21 Governor Blagojevich's administration and with his
22 support concerning the reporting of wrongdoing?

23 MR. SCHAR: Objection, Judge.

24 THE COURT: The objection is sustained.

:08PM

25 BY MR. SOROSKY:

Tusk - cross by Sorosky

2307

1 Q Are you familiar with the ethics law of 2003?

2 MR. SCHAR: Objection, Judge.

3 THE COURT: The objection is sustained.

4 You're way beyond the scope.

5 MR. SOROSKY: Could we have our one sidebar
6 of the day for an offer of proof?

7 THE COURT: Sure.

8 (Proceedings heard at sidebar on the record.)

9 MR. SOROSKY: Our position would be under the
10 ethics law which was enacted in 2003 that any State
11 employee who knows of any wrongdoing is required to
12 report it to the Inspector General, and that he,
13 Mr. Tusk, was there at the inception of the law and
14 the supporter of the law never reported it to the
15 Inspector General in light of this law.

16 THE COURT: I gather from a period of time
17 where he was not answering the question would offer
18 his own defense, what his defense to that was is he
19 thought the appropriate way was to report it to the
20 Governor's ethics guy. And my guess would be that
21 if the government intends to bring that out on
22 redirect if that is what he thought he was required
23 to do and if you want to ask him about the State
24 law, you're entitled to do that, but just ask him.

25 (Proceedings resumed within the hearing of the

:09PM

Tusk - redirect by Schar

2308

1 jury.)

2 BY MR. SOROSKY:

3 Q Are you familiar with the State ethics law of
4 2003?

:11PM

5 THE COURT: No, I'm sustaining that objection
6 absent the scope being broadened if there is
7 redirect.

8 MR. SOROSKY: Okay. No further questions.

9 MR. SCHAR: Just briefly.

:11PM

10 REDIRECT EXAMINATION

11 BY MR. SCHAR:

12 Q Mr. Tusk, you were asked some questions about the
13 big picture of legislation. Did you want to be the
14 person or did you expect to be the person who was
15 going to be making decisions upon what the State of
16 Illinois would pass or veto?

17 A That was not my expectation upon taking the job.

18 MR. SOROSKY: Objection. Outside of the
19 scope of the cross.

:11PM

20 MR. SCHAR: There was a whole section of it.

21 THE COURT: No, it isn't. The objection is
22 overruled.

23 BY MR. SCHAR:

:12PM

24 Q Was that your expectation of doing that? Did you
25 find that somebody had to make the decisions because

Tusk - redirect by Schar

2309

1 Defendant Blagojevich wasn't showing up?

2 A Yes.

3 Q And these are decisions needing to be made
4 because some of these laws are going to actually
5 take effect unless somebody vetoed it, correct?
:12PM

6 A Correct.

7 Q Did you find that you could discuss these issues
8 with the Governor of the State of Illinois all the
9 time that had to make these decisions?
:12PM

10 A No, I could not always discuss it with him.

11 Q Is it because you didn't want to discuss it or
12 you couldn't discuss it?

13 A It was sometimes difficult to reach him.

14 Q Did you find sometimes he was engaged in the
15 process?
:12PM

16 A No, he was not always engaged in the process.

17 Q As for taking steps, you were asked questions
18 that you didn't go to the FBI, you didn't go to a
19 variety of agencies, did you have serious concerns
20 about what was told to you by Defendant Blagojevich?
:12PM

21 A I did.

22 Q Did you take what you thought were reasonable
23 steps to try to stop Defendant Blagojevich to
24 communicate that message?
:13PM

25 A I did.

Tusk - redirect by Schar

2310

1 Q That included calling Mr. Wyma and calling Mr.
2 Quinlan?

3 A Yes, it did.

4 Q You were asked questions about you didn't have
:13PM 5 any further conversations with Defendant Blagojevich
6 about this. Is it fair to say you didn't want to
7 have any further conversations about this topic at
8 all?

9 MR. SOROSKY: Objection.

10 THE COURT: Overruled.

11 THE WITNESS: Correct.

12 BY MR. SCHAR:

13 Q In fact, you were at this point transitioning to
14 get out of the office of the Governor, is that fair
:13PM 15 to say?

16 A I was.

17 Q You were gone by December of 2006?

18 A Yes, sir.

19 Q In terms of ranting and raving, did you ever hear
20 :13PM Defendant Blagojevich rant and rave from time to
21 time?

22 A Yes.

23 Q Did he rant and rave about being upset that
24 something was put on the schedule that he did didn't
25 :13PM want to attend?

Tusk - redirect by Schar

2311

1 A Yes.

2 Q Did he rant and rave about meeting people on his
3 schedule who he didn't want to meet with?

4 A Yes.

:13PM

5 Q Did you take those terribly seriously all the
6 time?

7 A The meetings and events often had to happen, so I
8 understood them to be expressions of frustration.

:14PM

9 Q When he said what he said to you on that
10 telephone conversation about holding up the grant
11 for the fundraiser, did you think that was ranting
12 and raving?

13 A No I did not.

:14PM

14 Q Did you take it very seriously?

15 A I did.

16 Q Did you take steps to try to communicate your
17 concerns to other individuals?

18 A I did.

19 MR. SCHAR: Nothing else, Judge.

:14PM

20 RECROSS EXAMINATION

21 BY MR. SOROSKY:

:15PM

22 Q I believe you testified on redirect examination
23 that you quit the Blagojevich administration or left
24 the administration some four or five months later,
25 is that correct?

Tusk - redirect by Schar

2312

1 A I left December of 2006.

2 Q That was after Governor Blagojevich had completed
3 one term and was reelected, right?

4 A It was after his reelection, just before the
5 completion of the first term.
:15PM

6 Q Right. And didn't you only plan to stay one
7 term?

8 A I did.

9 Q So you left at the time you planned to leave four
10 years ago because you only planned to stay one term,
11 correct?
:15PM

12 A Correct.

13 Q And you left to take a job with Goldman Sachs,
14 did you not?
:15PM

15 A I left to take a job with Lehman Brothers.

16 Q With Lehman Brothers, excuse me.

17 And after you took a job with Lehman
18 Brothers, an issue arose as to whether Lehman
19 Brothers could work on the possibility of buying or
20 purchasing the Illinois lottery --
:16PM

21 MR. SCHAR: Objection.

22 THE COURT: The objection is sustained.

23 BY MR. SOROSKY:

24 Q Now, I believe Mr. Schar asked you if the
25 Governor said things on occasion because he was
:16PM

Tusk - redirect by Schar

2313

1 frustrated?

2 A Yes.

3 Q And you testified that the Governor on occasion
4 said things because he was frustrated, right?

:16PM

5 A Yes.

6 Q And he just said it once and that was it, right?

7 A Sometimes once, sometimes repeatedly.

:17PM

8 Q And the Governor just said this statement once,
9 "where is my fundraiser? Tell Ron's brother to have
10 a fundraiser," or words to that effect? He just
11 said it once to you in a telephone conversation
12 sometime in the night, right?

13 A Correct.

:17PM

14 Q And you don't know what the Governor was doing at
15 the time, do you?

16 A No, I do not.

17 Q And you don't know if he was frustrated about
18 whatever at the time, do you?

19 A No, I do not.

:17PM

20 Q And just because he said that once, that's why
21 we're here on this issue today, right?

22 MR. SCHAR: Objection.

23 THE COURT: Don't do that. I mean now we're
24 into mind reading into the prosecution.

:18PM

25 If it's not clear, I sustained the objection.

Tusk - redirect by Schar

2314

1 BY MR. SOROSKY:

2 Q And although he said that once, he never told you
3 after that momentary comment on the phone to call up
4 Congressman Emanuel and ask for that fundraiser in
5 return for the grant money to be dispensed, did he?

6 A He did not.

7 Q You talked to him almost every day or every day?

8 A Yes.

9 Q And you don't know of anyone who he ordered to do
10 that?

11 A No, I do not.

12 Q And it was your testimony that Congressman
13 Emanuel was one of the few people the Governor was
14 on good terms with in higher political circles and
15 spoke to regularly, right?

16 A Yes.

17 Q And, in fact, Governor Emanuel was one of the few
18 people on stage with the Governor when he was
19 reelected, was he not?

20 A I don't --

21 Q Not Governor, I mean Congressman Emanuel.

22 A I don't recall.

23 Q You don't recall that, huh?

24 A No.

25 Q Congressman Emanuel certainly endorsed Governor

Tusk - redirect by Schar

2315

1 Blagojevich, didn't he?

2 MR. SCHAR: Objection, Judge.

3 THE COURT: The objection is sustained.

4 BY MR. SOROSKY:

:19PM

5 Q One last area and then that'll be it.

6 You previously said you worked for Mayor
7 Bloomberg, did you not?

8 A Yes.

:19PM

9 Q Now, sometime in the fall of 2006, after this
10 comment by the Governor occurred, just before the
11 election, just before the Governor's second
12 election, did you ask Mayor Bloomberg to contribute
13 \$50,000 --

14 MR. SCHAR: Objection.

:20PM

15 MR. SOROSKY: -- to Governor Blagojevich.

16 THE COURT: The objection is sustained.

17 MR. SOROSKY: What?

18 THE COURT: The objection is sustained.

:20PM

19 MR. SOROSKY: Nothing further for this
20 witness.

21 MR. SCHAR: Nothing further.

22 THE COURT: You may step down.

23 (witness excused.)

24 THE COURT: We'll take a break.

:20PM

25 THE MARSHAL: All rise.

Tusk - redirect by Schar

2316

1 (The following proceedings were had out of the
2 presence of the jury in open court:)

3 THE COURT: Counsel, approach the lectern.

4 (Brief pause.)

5 :21PM THE CLERK: Please be seated in the
6 courtroom.

7 THE COURT: who is next?

8 :21PM MR. SCHAR: Judge, we're going to talk about
9 that. It'll either be Mr. Brusnighan or Mr. John
10 Harris.

11 THE COURT: who did you say?

12 MR. SCHAR: It'll either be Duane Brusnighan
13 or John Harris.

14 :21PM THE COURT: I'm assuming the first name is
15 shorter of the two witnesses?

16 MR. SCHAR: Yes.

17 MR. SOROSKY: I assume there's a difference
18 in time between the two.

19 :21PM THE COURT: Yeah, that's what I'm talking to.

20 MR. SCHAR: If we decide to call
21 Mr. Brusnighan, he's a 10-minute witness.

22 THE COURT: Okay. See you in about
23 15 minutes.

24 :21PM (Recess.)

25 THE MARSHAL: All rise.

1 (The following proceedings were had in the
2 presence of the jury in open court:)

3 THE COURT: Please be seated.

4 Call a witness.

5 MR. SCHAR: Yes, Your Honor.

6 With your permission, I would like to read a
7 stipulation.

8 THE COURT: Sure.

9 MR. SCHAR: Second stipulation:

10 :47PM ".... it is hereby stipulated and agreed by and
11 :47PM between the United States of America, by and
12 :47PM through its attorney, Patrick J. Fitzgerald,
13 :47PM the United States Attorney, Northern District
14 :47PM of Illinois, that Rod Blagojevich, individually
15 :47PM and through his attorney, Sheldon Sorosky, and
16 :47PM the defendant Robert Blagojevich, individually
17 :47PM and through his attorney, Michael Ettinger, the
18 :47PM following facts are and should be considered by
19 :47PM the jury to be true and accurate:

20 :47PM Stipulation number 5: The money obtained for
21 :47PM the \$2 million grant by the Academy of Urban
22 :47PM School Leadership was used to directly purchase
23 :47PM goods and equipment in interstate commerce and
24 :47PM was further provided to companies within the
25 :48PM State of Illinois that customarily purchase

Tusk - redirect by Schar

2318

1 goods and equipment in interstate commerce."

2 "Stipulation number 7: Signing Illinois House
3 Bill 4578 into law affected or had the
4 potential to affect interstate commerce.
5 Both Maywood Park Trotting Association, Inc.,
6 and Balmoral Racing Club, Inc., operated horse
7 racing tracks that customarily purchased goods
8 and equipment in interstate commerce, and
9 customarily paid race awards to horses from
10 outside the state of Illinois.
11 If Illinois House Bill 4578 was signed into
12 law, Maywood Park Trotting Association, Inc.,
13 and Balmoral Racing Club would have had
14 additional assets available for the purchase of
15 goods and equipment in interstate commerce and
16 for the payment of awards to horses from
17 outside the state of Illinois, thus affecting
18 interstate commerce."

19 And it should be, for the record, citing
20 Illinois House Bill 475.

21 So stipulated?

22 MR. ADAM, JR.: So stipulated.

23 MR. ETTINGER: So stipulated.

24 THE COURT: So stipulated.

25 There a couple of things that I might pause

1 to explain to you, one of which is a stipulation.
2 The jurisdiction of federal courts depends, in some
3 cases, on the acts involved and alleged in the
4 indictment having some effect, sometimes even only a
5 minor effect, on interstate commerce, which is what
6 was stipulated to.

7 The second thing is is you have heard some
8 objections in which the lawyer says "beyond the
9 scope" or, in shorthand, say scope." what that is
10 is if a witness is put on direct examination and
11 asked about certain topics A, B and C, the
12 cross-examination cannot delve into D, E and F, they
13 are separate topics. And the reason for that is,
14 the cross-examiner can call the witness as part of
15 the cross-examiner's case and put the witness on
16 direct examination about D, E and F, that's why we
17 have the scope objection and that's what it means.

18 with that, call a witness.

19 MS. HAMILTON: The government calls John
20 Harris.

21 THE COURT: Face me and raise your right
22 hand.

23 (witness duly sworn.)

24 THE COURT: Please be seated.

:49PM

:49PM

:50PM

:50PM

:50PM

Harris - direct by Hamilton

2320

1 JOHN F. HARRIS, GOVERNMENT WITNESS, SWORDN

2 DIRECT EXAMINATION

3 BY MS. HAMILTON:

4 Q Good afternoon.

:50PM

5 Please state and spell your name for the
6 jury.

7 A John F. Harris, J-o-h-n F. H-a-r-r-i-s.

8 Q Mr. Harris, how old are you?

9 A 48.

:51PM

10 Q Where do you live?

11 A On the north side of the City of Chicago.

12 Q What is your educational background?

13 A I completed college and law school and graduated
14 in 1987.

:51PM

15 Q Where did you go to college?

16 A Northwestern University.

17 Q Where did you go to law school?

18 A Loyola University.

19 Q What did you do after law school?

:51PM

20 A I went on active duty in the United States Army.

21 Q How long were you with the United States Army?

22 A 3 years as a reservist while in law school and
23 nearly 5 years as an active duty officer.

:51PM

24 Q What did you do as an active duty officer for the
25 Army?

Harris - direct by Hamilton

2321

1 A I was Judge Advocate General, which is a JAG
2 officer, which is an army lawyer.

3 Q When did you leave the Army?

4 A I left the Army 1992.

:51PM

5 Q What did you do then?

6 A I came to work for the City of Chicago.

:52PM

7 Q What was your first position with the City of
8 Chicago?

9 A Assistant Commissioner of Intergovernmental
10 Affairs and Legislative Affairs for the city's
11 Department of Aviation, City of Chicago's Department
12 of Aviation.

:52PM

13 Q What was your next position with the City of
14 Chicago?

:52PM

15 A With the Department of Aviation I held a few
16 title on my first tour of duty there, left as the
17 Chief of Staff for the Chicago airport system, then
18 I went to work with the Chicago Police Department as
19 a Deputy Superintendent of Administrative Services,
20 spent 5 years in that position, returned to the
21 Department of Aviation as the first deputy
22 commissioner or chief operating officer for a period
23 of approximately 4 years, and then was appointed by
24 the mayor as budget director for the City of Chicago
25 and served in that capacity for about a year and a

:52PM

Harris - direct by Hamilton

2322

1 half.

2 Q Was that the last position you had at the City of
3 Chicago?

4 A Yes.

:53PM

5 Q Generally, what were your duties as the budget
6 director?

7 A I oversaw the development, the legislative
8 approval of, and execution of the City's nearly 6
9 billion dollar operating budget.

:53PM

10 Q Over the course of the various positions you held
11 with the City of Chicago, did you ever act as a
12 lawyer?

13 A No.

14 Q When did you leave the City of Chicago?

:53PM

15 A In late summer, early fall 2005.

16 Q Why did you leave the City of Chicago then?

17 A To take a position in Governor Blagojevich's
18 administration.

19 Q What position did you take?

:53PM

20 A Chief of Staff.

21 MS. HAMILTON: Your Honor, I ask if there is
22 going to be a stipulation on identification?

23 MR. ADAM, JR.: Yes.

24 THE COURT: It's stipulated that he has
25 identified Defendant Blagojevich as the person for

:53PM

Harris - direct by Hamilton

2323

1 whom he knew.

2 MS. HAMILTON: Thank you.

3 BY MS. HAMILTON:

4 Q Mr. Harris, what do you currently do for a
:54PM living?

5 A I work as an apprentice lineman electrician, I
6 work nights.

7 Q How long have you been an apprentice lineman
8 electrician?

:54PM 10 A A year.

11 Q At some point did you resign your position as
12 Chief of Staff for Defendant Rod Blagojevich?

13 A Yes.

14 Q When?

:54PM 15 A I believe it was December 12th, 2008.

16 Q Why?

17 A Following my arrest along with the Governor on
18 December 9th I found it untenable and unable to
19 continue to serve in that capacity.

20 Q You said you were arrested on December 9th?

21 A Yes.

22 Q Was that 2008?

23 A Yes.

24 Q After you were arrested, did you decide to
25 :54PM cooperate with the government in its investigation?

Harris - direct by Hamilton

2324

1 A Yes.

2 Q Have you currently been charged with a crime?

3 A Yes, ma'am.

4 Q What crime have you been charged with?

:55PM

5 A Conspiracy to solicit a bribe.

6 Q Have you pled guilty to that crime?

7 A Yes.

8 Q Did you plead guilty pursuant to a written plea
9 agreement with the government?

:55PM

10 A Yes.

11 Q What is your understanding of what you are
12 required to do under the terms of that plea
13 agreement?

:55PM

14 A Cooperate fully in the government's
15 investigation, provide truthful information.

16 Q What's your understanding of what the government
17 is required to do?

:55PM

18 A Make a recommendation in accordance with and
19 pursuant to the plea agreement to the Court when it
20 comes time for my sentencing.

21 Q What's your understanding of what the
22 government's recommendation will be with respect to
23 your sentence?

24 A A sentence not to exceed 35 months.

:55PM

25 Q Under the terms of the agreement, do you have the

Harris - direct by Hamilton

2325

1 ability to ask the judge for a lower sentence than
2 that?

3 A Yes.

4 Q what's your understanding of who will ultimately
:56PM 5 decide what your sentence will be?

6 A The judge in this case, His Honor.

7 Q what's your understanding of what happens to the
8 agreement if you lie?

9 A The agreement would be null and void.

:56PM 10 Q Now, you testified that you've currently pled
11 guilty to conspiracy to solicit a bribe, is that
12 right?

13 A Yes.

:56PM 14 Q In the course of this case, did you originally
15 plead guilty to a different crime?

16 A Yes.

17 Q Did you plead guilty to that crime also pursuant
18 to a written plea agreement?

19 A Yes.

:56PM 20 Q And under the terms of that agreement, did you
21 agree to cooperate with the government as you've
22 testified already?

23 A Yes.

24 Q Under the terms of the first plea agreement,
25 what's your understanding of what the maximum amount

Harris - direct by Hamilton

2326

1 of jail was that you were facing?

2 A 35 months.

3 Q And is that different from the second plea
4 agreement you are currently under?

:57PM

5 A No, it's the same agreement.

6 Q And when you talk about the agreement, it's your
7 understanding that that's the recommendation that
8 the government is going to make, is that right?

9 A Right.

:57PM

10 Q Is that recommendation -- well, let me ask a
11 different question.

12 without the government's recommendation,
13 what's your understanding under your current plea
14 agreement of what the maximum amount of time you
15 face in jail is?

:57PM

16 A 60 months.

:57PM

17 Q And under the terms of your first plea agreement,
18 what was your understanding of without the
19 government's recommendation what the maximum time
20 was that you were facing?

21 A For the one count, 20 years.

22 Q From your perspective, did you receive any sort
23 of greater benefit under the second agreement?

24 A No.

:57PM

25 Q Why not?

Harris - direct by Hamilton

2327

1 A Because the 35-month ceiling, if you will, is the
2 same in both agreements and the conduct was the same
3 in both agreements.

4 Q Is the first plea agreement still in effect?

:58PM

5 A No.

6 Q what happened to that first plea agreement?

7 A The government withdrew the first charge.

:58PM

8 Q Was it your idea or suggestion to have that
9 charge withdrawn and have you plead a second time?

10 A No.

11 Q Did you agree to do so as part of your
12 cooperation with the government?

13 A Yes.

:58PM

14 Q Mr. Harris, before you became Defendant
15 Blagojevich's Chief of Staff, had you put your name
16 in for consideration with a different position with
17 his administration?

18 A Yes.

:58PM

19 Q When?

20 A After the Governor won his first term in office
21 sometime in late 2002 or after the November election
22 of 2002, the Governor was building his cabinet and
23 his administration and I was recruited to put my
24 name in as Secretary of Transportation for the State
25 of Illinois.

:59PM

Harris - direct by Hamilton

2328

1 Q Who was it that approached you about that?

2 A Congressman -- then Congressman Dan Lipinski
3 father of current Congressman Dan Lipinski.

4 Q In connection with putting your name for
5 consideration to be Secretary of Transportation, did
6 you have an interview?

7 A Yes, I did.

8 Q Who was at that interview?

9 A The Governor, the governor-elect at that time,
10 Lon Monk, Christopher Kelly, someone who I later
11 came to identify as Tony Rezko, and others that I
12 don't recall at this time.

13 Q At the time of that interview, did you know
14 Defendant Blagojevich?

15 A Yes.

16 Q Did you know him well or had you met him in
17 passing?

18 A I had met him in a couple of social occasions, a
19 couple of political events, but didn't know him very
20 well.

21 Q Did you know Lon Monk at the time?

22 A No, I did not.

23 Q And you said that there was an individual you
24 later came to know as Tony Rezko?

25 A Yes.

Harris - direct by Hamilton

2329

1 Q So I take it you did not know him at the time of
2 the interview?

3 A I knew of him but didn't know him.

4 Q Did you have any understanding as to why

:00PM

5 Mr. Rezko was at your interview to be Secretary of
6 Transportation?

7 A No.

8 Q Did you know Chris Kelly at the time of your
9 interview?

:00PM

10 A Yes.

11 Q How did you know Chris Kelly?

:01PM

12 A Chris Kelly was a contractor at O'Hare Airport
13 while I was serving there and we had similar
14 friends, common friends, and had met him several
15 times in social occasions.

16 Q Did you have an understanding as to why he was at
17 your interview for Secretary of Transportation?

:01PM

18 A I understood Chris Kelly was the Governor's
19 campaign finance chair in the Governor's first
20 election.

21 Q Did you ultimately get the position of Secretary
22 of Transportation?

23 A No, I did not.

:01PM

24 Q At that time were you then asked to consider
25 another position in the Blagojevich administration?

Harris - direct by Hamilton

2330

1 A Yes.

2 Q what position was that?

3 A Director of Illinois Department of Corrections to
4 run the state prisons.

:01PM

5 Q Who asked you to consider taking that position?

6 A Chris Kelly told me that the Governor wanted him
7 to ask me whether I would be interested in that
8 position.

:01PM

9 Q What was your response?

10 A I declined and didn't think I had the requisite
11 background for that position.

12 Q All right. Mr. Harris, I want to focus on your
13 time as Chief of Staff for Defendant Blagojevich.
14 When did you start working for Defendant
15 Blagojevich?

:02PM

16 A The end of August, beginning of September of
17 2005.

18 Q Who approached you about considering the position
19 of Chief of Staff?

:02PM

20 A A friend and colleague of mine from the city,
21 Jack Hartmann, who was then serving and had served
22 in the Governor's first term as the executive
23 director of the tollway system, the Illinois tollway
24 system, told me that he had put my name in for
25 consideration with the Governor and his advisers

:02PM

Harris - direct by Hamilton

2331

1 because they were looking for a chief of staff and
2 he told me that he had, in effect, nominated me for
3 that position, and then I was contacted later by
4 Chris Kelly who asked me to meet with him for cup of
5 coffee and discuss an opportunity.

6 Q Did you, in fact, meet with Chris Kelly?

7 A Yes, I did.

8 Q Approximately when was this?

9 A Late June, early July 2005.

10 Q As far as you knew, was Mr. Kelly working in the
11 office of the Governor?

12 A No.

13 Q What was your understanding of why Mr. Kelly was
14 involved in talking with you about possibly being
15 the new Chief of Staff for Defendant Blagojevich?

16 A I understood from Mr. Kelly that he was an
17 adviser, part of the Governor's kitchen cabinet, if
18 you will, and continued to serve in some capacity in
19 the campaign as finance chair or some other title.

20 Q You said that Mr. Kelly wanted to meet you for a
21 cup of coffee?

22 A Yes.

23 Q Did you, in fact, meet Mr. Kelly?

24 A Yes, I did.

25 Q What happened at that meeting?

Harris - direct by Hamilton

2332

:03PM
1 A At that meeting he asked me whether I would
2 consider taking a job with the administration as the
3 Governor's Chief of Staff because the Governor was
4 gearing up for a reelection campaign and his current
5 Chief of Staff, Lon Monk, was going to transition to
6 the campaign and become a campaign manger and they
7 were interested in me coming on board as Chief of
8 Staff.

:04PM
9 Q Did you learn anything else about the position at
10 that time?

11 A Yes, I understood that the Governor wanted
12 somebody who had some background in government and
13 experience in operations of government.

:04PM
14 They had in the first term a team in the
15 Governor's Office not too familiar with government
16 in Illinois and Chicago, not much government
17 management or administration experience, and they
18 thought I would be a valuable asset and addition to
19 the team.

:04PM
20 The Governor -- or Chris Kelly told me at
21 that time that the Governor was going to run for a
22 second term, that they all felt very confident that
23 he would win a second term, and that they had
24 political aspirations beyond a second term in the
25 Governor's Office up to and including a run for the

:05PM

Harris - direct by Hamilton

2333

1 white House.

2 Q what was your response during this meeting with
3 Mr. Kelly about the position?

4 A I told him I'd be interested in sitting down with
5 the Governor and if offered the position would take
6 it, but would commit to only 2 years. Obviously I
7 would be serving at the pleasure of the Governor,
8 but I wanted to let Mr. Kelly know that my time
9 frame or my expectation at the time was to serve no
10 more than 2 years.

11 Q After you met with Mr. Kelly, did you meet with
12 anyone who was officially working within the office
13 of the Governor?

14 A Yes.

15 Q Who?

16 A I met with a Bradley Tusk who was then serving in
17 the capacity as deputy Governor in the Blagojevich
18 administration.

19 Q And what happened, generally, at that meeting
20 with Mr. Tusk?

21 A He wanted to get know me. He was a leading
22 figure in the administration and I believe he just
23 wanted to get to know me and meet me and get a sense
24 of comfort with me because we would be working very
25 closely together and talk to me about the Governor's

:05PM

:05PM

:05PM

:05PM

:06PM

Harris - direct by Hamilton

2334

1 programs, policies, initiatives, accomplishments,
2 and some of the ideas they had going forward.

3 Q Did you meet with anyone else within the office
4 of the Governor?

:06PM

5 A Yes, later on I met with the Governor himself and
6 Bradley Tusk was at that meeting.

7 Q Did you ever talk to Lon Monk, the then Chief of
8 Staff, about the position of Chief of Staff?

9 A Yes, I did.

:06PM

10 Q And did you meet with Mr. Monk before you met
11 with Defendant Blagojevich?

12 A Yes.

13 Q What happened at your meeting with Mr. Monk
14 regarding the Chief of Staff position?

:07PM

15 A I had a brief meeting with him in a restaurant in
16 the west Loop of Chicago and he told me about the
17 administration, their plans, their expectations.
18 Asked me if I was interested in it if I were offered
19 a position.

:07PM

20 I confirmed to him that I would be, and then
21 he told me he would be setting up a meeting with me
22 and the Governor and I should hear back from him
23 shortly.

:07PM

24 Q Did he tell you anything about what to expect
25 from the position of Chief of Staff on a general

Harris - direct by Hamilton

2335

1 basis?

2 A Generally, they were looking to me to oversee
3 day-to-day operations of state government while the
4 Governor and Lon Monk were campaigning.

:07PM

5 Bradley Tusk would be sticking around for a
6 period of time and he generally oversaw policy and
7 legislative affair matters and communications
8 matters, but that they would be looking to me to be
9 hands-on more in the administration and day-to-day
10 operations and the budget process and the
11 development of the budget, the operating budget of
12 the State of Illinois.

:08PM

13 Q So you already testified that at some point you
14 then met with Defendant Blagojevich, is that
15 correct?

:08PM

16 A Yes.

17 Q Was anyone else at your meeting?

18 A Bradley Tusk.

:08PM

19 Q what happened at your meeting with Defendant
20 Blagojevich regarding the position of Chief of
21 Staff?

:08PM

22 A The Governor told me that they would like me to
23 come on board and he began to tell me about the
24 accomplishments of his administration in the first
25 term, some of the things they would like to get done

Harris - direct by Hamilton

2336

1 in the second term, and that hopefully beyond that
2 he wanted to pursue a race for the presidency.

3 Q Did you accept the position?

4 A Yes, I did.

:08PM

5 Q And when did you start to work in the office of
6 the have Governor?

7 A Late August, early September of that year, 2005.

:09PM

8 Q When you started at that point with the office of
9 the Governor, what was your title?
10 A Because Lon Monk had not yet left and had delayed
11 his departure to move over and transition to the
12 campaign, a position was created for me of chief
13 operating officer to begin to know the members of
14 the cabinet, the state agencies, and get involved in
15 the budget process.

:09PM

16 So I served in that capacity for
17 approximately 3 months until Lon Monk stepped down
18 as Chief of Staff and moved over to the campaign.
19 Sometime in early December I assumed the position of
20 Chief of Staff.

:09PM

21 Q Generally speaking, what were your duties as
22 Chief of Staff for Defendant Blagojevich?

:09PM

23 A I saw my duties as ensuring the Governor's
24 policies and initiatives were executed through the
25 coordination of the senior staff and members of his

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1 cabinet, I set standards for and evaluated the
2 performance of state agencies under the Governor's
3 control, and other duties and tasks as assigned from
4 time to time by the Governor.

:10PM

5 Q Was it your understanding that as Chief of Staff
6 Defendant Blagojevich was relying on you for legal
7 advice?

8 A No.

:10PM

9 Q Were there any specific circumstances under which
10 you did act as legal counsel?

11 A Yes.

:10PM

12 Q How many?

13 A One.

:10PM

14 Q Very generally, what were those circumstances of
15 that one time you acted as legal counsel?

16 A In the summer of 2007, after a protracted
17 legislative session where the legislature would
18 normally recess the end of May, the Governor had
19 called a series of special sessions, power granted
20 to him under the Illinois constitution, to
21 convenient the Illinois General Assembly if there
22 was unfinished business or work to be done.

:11PM

23 For over 70 days the Governor ordered the
24 General Assembly back into session to take care of
25 unfinished business. There reached a point where

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1 the Speaker of the House, Michael Madigan, ignored
2 the call for a special session and the Governor sued
3 the Speaker in state court and I joined the legal
4 team in writing the legal briefs or reviewing the
5 legal briefs that were filed in that case.

:11PM

6 That was a case of special interest to me and
7 I asked the Governor's general counsel if I could be
8 special counsel on that case.

:11PM

9 Q Did you interact with Defendant Blagojevich as
10 special counsel on that case?

11 A No, my activities were limited to reviewing
12 briefs and making edits to briefs.

13 Q Other than that --

14 A We did --

:11PM

15 Q I'm sorry. Go head.

16 A We did discuss the lawsuit, I was in the presence
17 of Mr. Quinlan, the Governor's general counsel, and
18 we would discuss our efforts on that case and give
19 him regular updates.

:12PM

20 Q Other than that one circumstance, did you act as
21 a lawyer during any other time that you were Chief
22 of Staff for Defendant Blagojevich?

23 A No.

:12PM

24 Q When you were describing your general duties as
25 Chief of Staff, you mentioned the fact that you

Harris - direct by Hamilton

2339

1 coordinated with senior staff, is that right?

2 A Yes.

3 Q what do you mean when you use the phrase "senior
4 staff"?

:12PM

5 A Soon after my appointment as Chief of Staff, I
6 reorganized the office of the Governor, made a
7 proposal to the Governor, which he concurred with,
8 to reorganize the way the office was organized.

:12PM

9 And we established three deputy governor
10 positions, two of them -- as opposed to one deputy
11 Governor position in the first term.

:12PM

12 Of the three deputy governors, we divided up
13 the responsibility of state agencies and operations
14 of government. Generally speaking, one deputy
15 Governor oversaw policy, communications and
16 legislative affairs.

:13PM

17 Another deputy Governor, who we call chief
18 operating officer, oversaw infrastructure
19 departments like the tollway, Department of
20 Transportation, Capital Development Board, another
21 construction related or infrastructure related
22 agencies, as well as regulatory agencies,
23 professional and financial regulatory agencies.

:13PM

24 A third deputy governor oversaw public safety
25 which was the state police, the Illinois National

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1 Guard, and human services which would be the
2 Department of Public Health and the Department of
3 Human Services, social-services type agencies.

4 Those three deputies along with the general
5 counsel and the director of communications or the
6 governor's press secretary, the Governor's
7 scheduler, that made up the senior staff in the
8 Governor's Office.

9 I would have regular meetings with the senior
10 staff and track progress on our initiatives, as well
11 as evaluate performances of the agencies that
12 reported to them directly.

13 Q Did the senior staff change over the time that
14 you were there?

15 A Yes.

16 Q When you first started, who were the members of
17 the senior staff?

18 A When I first started it was primarily myself,
19 Bill Quinlan as general counsel, and Bradley Tusk,
20 as the only deputy governor, and the director of
21 communications which was Cheryl Jackson at the time.

22 Q And how did that change over time?

23 A Over time we added the other two deputy governor
24 positions, as well as the fact that Bradley Tusk
25 departed the administration and a new deputy

Harris - direct by Hamilton

2341

1 Governor was appointed to fill the policy
2 communications and legislative affairs function.

3 Q And who was that?

4 A A Ms. Sheila Nix.

:14PM

5 Q At some point did she leave?

6 A Yes.

7 Q And who took over for her while you were Chief of
8 Staff?

9 A Mr. Bob Greenlee.

:14PM

10 Q Now, I believe you also mentioned, when you were
11 talking generally about your duties, the Cabinet, is
12 that right?

13 A Yes.

14 Q Generally speaking, what is the Cabinet?

:15PM

15 A The cabinet are the heads of the state agencies,
16 40 plus state agencies from the Department of
17 Transportation to the Director of Prisons, to the
18 Director of State Police, to Director of Public
19 Health, or the Director of Human Services. These
20 are the agencies that deliver the services to the
21 general public and the Cabinet is the head of each
22 of those agencies.

:15PM

23 Q Now, you talked somewhat generally about your
24 duties. What were some of your more specific
25 day-to-day duties as Chief of Staff?

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1 A On day-to-day I would review the weekly reports I
2 received from the agencies on certain metrics or
3 certain performance standards that are established
4 with the agency heads and with the members of the
:16PM
5 senior staff things that we needed to monitor on a
6 weekly basis, the top two or three items that we
7 were interested in tracking, we would oversaw the
8 progress on the Governor's initiatives and policies
9 that we were rolling out a new program. I would
:16PM
10 have regular meetings with the communication staff,
11 the legal staff, the operations staff. I oversaw
12 the office of boards -- or the director of the
13 office of boards and commissions reported to me, as
14 well as the director of the budget office reported
:16PM
15 to me, so I would have constant interaction with
16 those two directors.

17 Q Mr. Harris, I want to direct your attention to
18 the fall of 2006.

19 As Chief of Staff, was a problem involving a
20 grant to a school brought to your attention?
:16PM

21 A Yes.

22 Q Who was the recipient of the grant brought to
23 your attention?

24 A A school that I understood to be called the
25 Chicago Academy, I don't know if that was the formal
:17PM

Harris - direct by Hamilton

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1 and full name of the school.

2 Q Did you learn about the problems involving this
3 grant for the Chicago Academy from someone inside
4 the office of the Governor?

:17PM

5 A Yes, I believe it was Mr. Bradley Tusk.

6 Q Did you also learn about the problems of the
7 Chicago Academy grant from someone outside the
8 office of the Governor?

9 A Yes.

:17PM

10 Q Who was that?

11 A The office of Congressman Rahm Emanuel, 5th
12 District congressman from Chicago.

:17PM

13 Q What did you learn about -- what did you
14 understand to be the problem with the grant as it
15 was brought to you?

16 A That some or all of the grant had not been
17 released or paid out and that there was a problem
18 with the approval or the release of the remaining
19 funds.

:17PM

20 Q What did you do when you learned about this?

21 A I inquired -- well, Mr. Tusk told me the Governor
22 had not approved the release of the funds or would
23 not approve the release of the funds so I asked the
24 Governor about it.

:18PM

25 Q Did you have discussion with Defendant

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1 Blagojevich about it?

2 A Yes.

3 Q Was this in person or over the phone?

4 A I don't recall if that was in person or over the
:18PM phone.

6 Q What happened in that first discussion with
7 Defendant Blagojevich about the Chicago Academy
8 grant?

9 A He seemed to be familiar with it and told me not
10 to approve the release of funds, that he had not
11 approved the release of funds, and that suggested
12 that Bradley Tusk may have committed the funds
13 without the Governor's approval or knowledge.

14 Q At that point was anything further said in that
15 meeting -- or in that discussion, I'm sorry.

16 A Well, I told him that, as I understood it, that
17 the funds had been approved, that certain
18 expenditures had been undertaken by the school in
19 reliance on the grant and that I wanted to look into
20 the matter more and I told the Governor I would
21 bring it up with him again after I did a little more
22 research.

23 Q At some point did you bring the matter up again
24 with Defendant Blagojevich?

25 A Yes, I learned that the had school, in fact,

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1 relied on the grant and had undertaken some
2 construction or improvements and that there were
3 outstanding invoices that the school had in its
4 possession.

:19PM

5 I spoke to a Liz, I don't know her last name,
6 I believe she was Chief of Staff in Rahm Emanuel's
7 office, who provided me greater information, more
8 detailed information about the amount of monies that
9 the school had expended and was committed to pay and
10 that they needed the grant monies to pay those
11 outstanding invoices.

:19PM

12 Q what, if anything, did you relay to Defendant
13 Blagojevich what you had learned?

:19PM

14 A I told him that whatever the discrepancy was,
15 regardless of the origins of the grant, that the
16 school had spent the money in reliance on the grant
17 and it would be problematic for us not to pay the
18 monies that the school had committed to and the
19 invoices that they had in hand.

:20PM

20 Q Did Defendant Blagojevich react to this at all?

:20PM

21 A Yes, after I talked to him he was persuaded to
22 release the monies to pay the invoices, but his
23 instructions to say me were to release only those
24 amounts of monies that would pay the current
25 invoices that the school had in hand and asked me

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1 how I would ensure that would happen. I explained
2 to him that I would wait until I got the invoices
3 from the school before directing staff to release
4 the funds.

:20PM

5 Q So during that meeting, did Defendant Blagojevich
6 agree to the release of certain funds?

7 A Yes, some limited funds as they related to
8 invoices already in hand.

:21PM

9 Q And this was material that you had brought to
10 him?

11 A Yes.

:21PM

12 Q Because of that direction, did you then have to
13 go back to Defendant Blagojevich on multiple
14 occasions for approval to release parts of the
15 grant?

:21PM

16 A Yes, there was -- the invoices came in
17 intermittently, they didn't all come in at once
18 because some work was in progress but had not yet
19 been invoiced.

:21PM

20 So I went back to the Governor and explained
21 to him that there was additional work that may not
22 have been invoiced but that there would be future
23 payments that we need to authorize to be released,
24 sought his approval for that condition, and received
25 his approval, and he told me to instruct him or

:21PM

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1 advise him when those invoices came in and when the
2 payments would be released and, generally, the
3 amounts.

4 Q The process that you just described, the one that
:21PM 5 you needed to go back each time to Defendant
6 Blagojevich with the invoices to show that the
7 school had incurred costs, was that typical for the
8 way that you dealt with grants while you were in the
9 Office of the Governor?

10 A I didn't actually show him the invoices, he just
11 relied on me that I had invoices. But no, the
12 process was not typical and quite involved and I
13 didn't experience that process again.

14 Q Now, you mentioned when you were talking about
:22PM 15 some of your more specific duties as Chief of Staff,
16 that you oversaw the Director of Boards and
17 Commissions, is that right?

18 A Yes.

19 Q what was your role with respect to appointments
:22PM 20 to state boards and commissions?

21 A Well, by way of background, the state has its
22 Cabinet which makes up the agencies that deliver
23 state services, but it also has hundreds of boards
24 and commissions that perform vital functions,
25 functions that are created by statute for these

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1 boards to oversee, and there's several hundred, over
2 a thousand members that make up these boards and
3 commissions.

4 The appointments to these boards and
:23PM 5 commissions are gubernatorial appointments. The
6 government makes the appointment. So the boards and
7 commissions office administers the appointments to
8 these commissions, facilitates their legislative
9 approval, but they get their direction from the
10 Chief of Staff as to who to appoint and who to
11 remove from time to time.

12 Q Over the course of your time as Chief of Staff,
13 did you have discussions with Defendant Blagojevich
14 about particular state boards that were of interest
15 to him?

16 A Yes.

17 Q Was one of those boards the University of
18 Illinois Board?

19 A Yes.

:23PM 20 Q Did Defendant Blagojevich explain to you why that
21 was a board that was of interest to him?

22 A Well, it was an interest -- it was of interest to
23 several of his supporters and allies, so it was of
24 interest to him as well.

25 It was also of interest to him because he had

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:24PM
1 on occasion discussed life after Governor, or when
2 he would leave office, he would like to serve in
3 some sort of adjunct professor or other capacity
4 with the University of Illinois and he just wanted
5 to make sure that he had friends and supporters and
6 allies serving on the board to facilitate that
7 request if and when he ever made it.

8 Q Mr. Harris, generally, what is the Pollution
9 Control Board?

:24PM
10 A The Pollution Control Board is one of the State's
11 regulatory oversight boards. They rule on matters
12 violations of Illinois pollution law or other
13 environmental laws. They have a docket of cases
14 that are brought to them by the enforcement
15 agencies. And the Pollution Control Board can
16 approve permits or disapprove permits, impose fines
17 on violators as the case may be. So the Pollution
18 Control Board is one of those boards that has a very
19 defined regulatory function.

:25PM
20 Q The Pollution Control Board, are their members
21 paid or unpaid?

22 A The Pollution Control Board is one of the few
23 paid boards in the State of Illinois.

24 Q Approximately how much do the members of the
25 Pollution Control Board make?

:25PM

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1 A A little over \$100,000 annually.

2 Q Did you ever have any discussions with Defendant
3 Blagojevich about the possibility of his wife
4 serving on the Pollution Control Board?

:25PM

5 A Yes.

6 Q Approximately when did those discussions take
7 place?

8 A I believe in early 2008.

:26PM

9 Q what was the context in which those discussions
10 came up?

:26PM

11 A The context was the financial difficulty that the
12 Blagojevich family was having, the financial
13 hardship they were facing because of the declining
14 revenues, diminishing business being done by Patti
15 Blagojevich who had been a real estate broker and
16 her business was suffering, and the Governor would
17 often tell myself and other members of the senior
18 staff that their business was suffering as a result
19 of the ongoing federal investigation and that he
20 needed to find Patti a job.

:26PM

21 Q And when you say he told you he needed to find
22 Patti a job, did he make any directive to you with
23 respect to finding his wife a job?

:27PM

24 A He brought -- he suggested the Pollution Control
25 Board. I'm not sure if Mrs. Blagojevich mentioned

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:27PM
1 it to him or he mentioned it to her, but, in any
2 case, he thought that might be a good position for
3 her and wanted me to look into that and also
4 research and come back to him with ideas about other
5 positions in the Governor's Office that could be
6 created for his wife.

7 Q Now, with respect to the Pollution Control Board,
8 what, if anything, did you tell Defendant
9 Blagojevich about the possibility of his wife
10 serving on that board?
:27PM

11 A I told him I didn't think it was a good idea. I
12 told him that she didn't meet the qualifications set
13 forth in the statute that created the board.
:27PM

14 This is one of the few boards that had
15 specific qualifications enumerated in the statute
16 that board members should have, experience levels
17 they should have, background levels they should
18 have, in order to meet the criteria to be appointed
19 to the board and ultimately confirmed by the Senate,
20 because this board also required Senate
21 confirmation.
:28PM

22 Q Did you tell Defendant Blagojevich about the
23 requirements for the Pollution Control Board members
24 as it related to his wife?
:28PM

25 A Yes, I didn't believe that she met them and I

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1 told him so.

2 Q what was his response to that?

3 A He told me that it didn't matter because other
4 board members in the past had served on the board
5 that didn't have the qualifications I discussed with
6 him and that I shouldn't be concerned about that
7 because others have done it in the past.

8 Q When he said others have done it in the past, was
9 it your understanding he was referring to other
10 governors had made appointments in the past?

11 A Yes; or there was current members that perhaps
12 were appointed by previous governors.

13 Q What was your response to that?

14 A I said be that as it may, it's still a problem
15 and could prove embarrassing for us and for Patti on
16 confirmation and I just thought it was a bad idea to
17 pursue that particular position.

18 Q Did you tell Defendant Blagojevich anything else
19 about the position as a member of the Pollution
20 Control Board in an effort to dissuade him from
21 having you put his wife on that board?

22 A He had asked on previous occasions what other
23 board positions are paid positions and I had told
24 him about other positions and other boards.

25 The Pollution Control Board, I pointed out to

:28PM

:28PM

:29PM

:29PM

:29PM

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1 him, was somewhat different than other boards
2 because they met regularly, whereas other boards
3 may meet once a month and matters are brought to
4 their attention for consideration by staff and then
:29PM
5 the board would vote up and down on recommendations
6 of the staff, the Pollution Control Board was a
7 different animal. It involved quite a bit of work,
8 it met almost weekly, members were expected to read
9 through case files that would be delivered to them
:30PM
10 on a weekly basis in anticipation of weekly
11 meetings.

12 So there was quite a bit of work involved,
13 and from what I understood the Governor was
14 searching for Patti earlier was, something that paid
:30PM
15 but didn't involve a lot of work or a lot of time
16 because she still had responsibilities as First Lady
17 and was also a mother of two and had great deal of
18 responsibilities at home, and I pointed this out to
19 him to perhaps dissuade him from this particular
20 pursuit.

21 Q Now, you just testified that it was your
22 understanding that Defendant Blagojevich wanted her
23 to get a job where she didn't -- I don't remember
24 the exact terms, but is it fair to say that she
25 wasn't going to work full-time?

:31PM

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1 A Yes, that's what I was understanding they were
2 looking for.

3 Q And was that understanding based upon what
4 Defendant Blagojevich had told you?

:31PM

5 A Yes.

6 Q After you explained the work and time commitment
7 of the Pollution Control Board members to Defendant
8 Blagojevich, what was his response?

:31PM

9 A Well, he said nevertheless he may do it, but come
10 back to him with other options working in the office
11 of Governor directly in a paid position for the
12 state as perhaps a member of his senior management
13 team.

:31PM

14 Q Now, when you say he told you to come back with
15 other positions, was it your understanding these
16 were positions that already existed or that would
17 created for his wife?

:31PM

18 A Both. If I didn't find one that I thought
19 suitable, to come up with a job description and a
20 salary and title for his consideration.

:32PM

21 Q What, if anything, did you come back with?

22 A I came back with one position as a senior policy
23 adviser. There was more to the title, I don't
24 recall it at this time, but in particular areas of
25 his interest, policy initiatives, to work in the

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1 Governor's Office.

2 Told him that if he were to pursue this, that
3 it would be important that she come to work each day
4 down at the Thompson Center, or Springfield, or
5 wherever the Governor may be, and that that may not
6 meet his needs in terms of his desire for her to
7 work in a more part-time environment.

8 Q What was his response to that suggestion?

9 A Well, initially he said well, yeah, sure, she
10 would come to work, and then later on in the
11 conversation I said well, then, she'd have to sit in
12 on meetings and we have them early in the morning
13 and sometimes late at night. And he said well,
14 sometimes I can talk to her at home because he
15 worked out of his home quite often. And I said
16 well, that may be problematic appearance-wise, I
17 don't think we should entertain that approach.

18 Q Over the course of your time as Chief of Staff,
19 did Defendant Blagojevich continue to raise the
20 issue of his wife's employment with you?

21 A With me, as well as other members of the staff.

22 Q At some point in 2008, did Defendant Blagojevich
23 talk with you about a particular license that his
24 wife had acquired?

25 A Yes.

:32PM

:32PM

:32PM

:33PM

:33PM

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1 Q And what was that?

2 A Mrs. Blagojevich had studied for and taken an
3 exam for a Series 7 license, that's what it's
4 commonly referred to. It's a license to market
5 securities investments.

6 Q And what, if anything, did Defendant Blagojevich
7 say to you about this license his wife had acquired?

8 A That she had scored real high on it and he was
9 proud of her and he wanted to help her find work in
10 an industry that she could use her new license and
11 asked me to gather the names of investment houses
12 and other financial firms that we did business with
13 for his review.

14 Q What was your response to that?

15 A I told him she couldn't work for an entity or a
16 business that did business with us, the state, and
17 he directed me to nevertheless come up with a list,
18 review the list, see whether or not I recognized any
19 of the names of the principals in these firms and
20 asked me if perhaps I could set up a meeting with
21 them.

22 Q What did you do?

23 A I told him I would come up with a list and review
24 the list.

25 And then after doing so, I told him I

:33PM

:34PM

:34PM

:34PM

:34PM

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1 recognized two names on the list that I was willing
2 to call to set up a general informational meeting
3 with.

4 Q And, again, what was this list?

:35PM

5 A Financial firms and financial institutions that
6 we had on record having done business with the
7 state.

8 Q And you said you recognized a couple of the
9 names?

:35PM

10 A Well, more than a couple, but I told him a
11 couple.

12 Q Did you, in fact, have discussions with anyone on
13 that list about Defendant Blagojevich's wife?

14 A Yes, two individuals.

:35PM

15 Q Who were the two individuals?

16 A A Mr. Ray Klich at Citibank and a Mr. John Rogers
17 at Ariel Capital Investments.

18 Q Focusing first on Mr. Ray Klich.

:35PM

19 You said he was from Citibank, is that
20 correct?

21 A Yes.

22 Q Did you have a discussion with Mr. Klich about
23 Defendant Blagojevich's wife and her search for
24 employment?

:35PM

25 A Yes.

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1 Q what did you tell him?

2 A I told him that Patti had completed her Series 7
3 license and was looking for work in the industry. I
4 asked him whether he'd be willing to sit down and
5 talk to her about the industry, the type of work
6 environment, the type of opportunities that are out
7 there.

8 I made clear to him that I didn't want him to
9 hire her or offer her a position. He felt relieved
10 at that point. And I just asked him whether he
11 would take a lunch or a meeting with her and give
12 her some advise and counsel.

13 Q when you said you made clear to him that he
14 shouldn't hire her, why did you do that?

15 A I didn't want him to think that's what I was
16 wanting him to do, so I just wanted to make it clear
17 that this was a general informational meeting.

18 Q And how is it that you knew Mr. Klich?

19 A I've known Mr. Klich for well over 10 years,
20 almost 15 years. He is in the municipal bond
21 division of citibank. This is the division of
22 Citibank that issues municipal bonds; cities,
23 states, counties, other public entities that it
24 raise money to undergo projects or other
25 expenditures of local government's.

:36PM

:36PM

:36PM

:36PM

:37PM

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1 In my prior capacity with the City of
2 Chicago, Department of Aviation and as Budget
3 Director, I had a number of dealings with Mr. Klich.
4 So we had a professional as well as personal
5 relationship.

:37PM
6 Q And when you talked to Mr. Klich, he agreed to
7 meet with Mrs. Blagojevich, is that correct?

8 A Said he'd be happy to.

9 Q And did he, in fact, meet with her?

:37PM
10 A Yes, he did.

11 Q At some point after the meeting, did you learn
12 how the meeting went?

13 A Yes, he called me after they completed lunch. I
14 introduced them at a restaurant across the street
15 from the State of Illinois Building, left them to
16 themselves.

17 He called me after the meeting and said it
18 went well, and she had a lot of questions, and he
19 painted a picture for her of what the industry was
20 like.

21 And it was a pretty oblique picture because
22 at the time there was a lot of competition in the
23 industry, a lot of recent MBA grads were pouring
24 into the industry or trying to get into the
25 industry, and those that tended to succeed in the

:38PM

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1 industry tended to work long days, seven days a week
2 and, it was a tough business to get into.

3 Q After you learned about the meeting from
4 Mr. Klich, did you have any discussions with
5 Defendant Blagojevich about his wife's meeting with
6 Mr. Klich?

7 A Not right after. You some time later.

8 Q And what did you learn from Defendant Blagojevich
9 about Mr. Klich and his meeting with
10 Mrs. Blagojevich?

11 A The Governor complained to me that Mr. Klich
12 wasn't returning Patti's calls or getting back to
13 her on some follow-up she was expecting and that she
14 was upset and the Governor in turn told me about it.

15 Q And what, if anything, further happened in that
16 communication?

17 A Nothing further at that communication. He just
18 said "have him call her back" and I said, well, I'll
19 look into it, but I didn't think there was any
20 follow-up out of that first meeting but I may have
21 been mistaken. But I said that I spoke to Ray, he
22 didn't understand there to be anything further, he
23 told her what he thought, and that's what Ray had
24 told me.

25 Q What happened next?

:38PM

:38PM

:38PM

:39PM

:39PM

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1 A Soon after that I went to see John Rodgers.

2 Q Did you hear anything further from Mr. Klich?

3 A Some time later, could've been days or weeks, I
4 received a note from Mr. Klich, an e-mail or a
5 handwritten note, I don't recall which, but it was
6 in my desk in my office, that he had received -- I
7 believe he forwarded to me an e-mail that he
8 received from Mrs. Blagojevich and he put a note on
9 that e-mail telling me he was concerned that he may
10 be offending her, he didn't know what to do, he was
11 worried that she was growing angry with him but he
12 didn't know what else he could do for her and was
13 concerned and sent me a note to that effect.

14 Q And at some point did you respond to that e-mail?

15 A Yeah, we spoke, Ray and I.

16 Q What did you tell him?

17 A I told him, "don't worry about it, Ray, I'll take
18 care of it."

19 Q All right.

20 And, Mr. Harris, you said that you also met
21 with Mr. Rogers, John Rodgers, is that correct?

22 A Yes.

23 Q Who is John Rodgers?

24 A He is the founder and I believe president of
25 Ariel Capital Financial which is an investment

:39PM

:40PM

:40PM

:40PM

:40PM

Harris - direct by Hamilton

2362

1 house.

2 Q How is it that you know Mr. John Rodgers?

3 A Again through my dealings with him and his firm
4 while I was in various positions in City government.

:40PM

5 Q And why is it that you contacted Mr. Rogers?

:41PM

6 A Just another resource I thought could assist
7 Mrs. Blagojevich in networking and other ideas for
8 employment. So I set up a meeting to see him after
9 work one day and went to his offices and had a brief
10 conversation with him.

11 Q what happened during that meeting?

:41PM

12 A We caught up on some small talk and told him
13 about Mrs. Blagojevich having received her Series 7
14 license and asked him if he would be willing to sit
15 down and meet with her or come up with names of
16 firms that he knew of that were looking for people
17 that did not do state business.

:41PM

18 In response, he suggested a firm called North
19 Star. I believe it's North Star or Star North, I
20 can't tell you exactly the name of the firm. And
21 that he was going to meet with the individual for
22 lunch later that week and would be happy to tell him
23 that Patti might be calling. I thanked him for his
24 time and reported back to the Governor.

:42PM

25 Q When you say you reported back to the Governor,

Harris - direct by Hamilton

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1 what do you mean?

2 A I told him I met with Mr. Rogers and he had come
3 up with the name of a firm. And he was happy about
4 that. He asked me to pass on the name to Patti,
5 which I did in a telephone call either later that
6 day or the next day.

7 And she told me she knew of the firm, that
8 the firm was in fact the firm that had sponsored her
9 to sit for her Series 7 exam license. I didn't know
10 at the time but in order to take the exam, you need
11 a sponsor or a perspective employer to sponsor you
12 for the exam. And that she didn't think there were
13 any opportunities or she said she wasn't interested
14 in any opportunities, in any case, that North Star
15 or Star North was not an option for her.

16 Q So what happened next?

17 A Nothing.

18 Q Did you have any further communications with
19 Defendant Blagojevich about this?

20 A Not for some time. A few weeks or days.

21 Q And then did you have another communication about
22 his wife and these meetings with Mr. Flich and
23 Mr. Rogers?

24 A Yes.

25 Q What did Defendant Blagojevich say?

:42PM

:42PM

:43PM

:43PM

:43PM

Harris - direct by Hamilton

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:43PM
1 A He came to the office one day or we were in the
2 car leaving his home -- or in the state of Illinois
3 Building, he came and he was quite agitated that
4 Patti was not having any success in finding work in
5 the financial industry using her Series 7 license
6 and he was very upset and told me to make sure that
7 Citibank doesn't get anymore state work and that
8 John Rodgers doesn't get anymore state work.

:44PM
9 Q And when he said make sure that Citibank doesn't
10 get anymore state work, what did you understand him
11 to be telling you?

:44PM
12 A That they shouldn't get anymore bond deals, they
13 shouldn't have a position as one of the underwriters
14 or financial institutions that we rely upon to issue
15 state debt.

16 Q And based on the context of that directive, what
17 was your understanding as to why Defendant
18 Blagojevich was telling you to make sure Citibank
19 didn't get more state work?

20 A He didn't feel that they had done enough to help
21 Patti.

22 Q What, if anything, did he say about John Rodgers?

23 A Words to the same effect.

24 Q And, again, what was your understanding as to
25 what he was telling you?

:44PM

Harris - direct by Hamilton

2365

1 A Make sure they didn't get anymore state business.

2 Q And, again, based upon the context of the
3 conversation, what was your understanding as to why
4 he was telling you John Rodgers shouldn't get
5 anymore further state business?

:45PM
6 A Because they weren't willing to do more for
7 Mrs. Blagojevich.

8 Q What was your response when Defendant Blagojevich
9 said this?

:45PM
10 A Well, I told him that we had no ability to
11 influence whether John Rodgers received state
12 business because he received his business from the
13 pension funds. The pension funds are not
14 institutions or agencies that the Governor's office
15 controls, that they hire investment counselors and
16 investment advisers on their own and they make
17 investments pursuant to that relationship, not a
18 relationship that comes through the Governor's
19 Office.

:45PM
20 Q And how did Defendant Blagojevich respond to
21 that?

22 A Shrugged his shoulders and said, "well, there's
23 nothing we can do?" I said, "no, there's nothing we
24 can do."

25 Q What, if anything, did you do in response to that

Harris - direct by Hamilton

2366

1 directive from Defendant Blagojevich?

2 A Nothing.

3 Q About making sure that Citibank and John Rodgers
4 didn't get any further state business?

:46PM

5 A Nothing further.

6 Q At some point after that did you learn that
7 Citibank was, in fact, going to get state business?

:46PM

8 A Yes, it was brought to my attention some time
9 later that Citibank had been selected or was going
10 to be selected by the Illinois Tollway Authority as
11 one of two co-managers or two underwriters to
12 undertake a bond issue, a several
13 hundred-million-dollar bond issue for the Tollway
14 Authority, funds that they needed to raise for its
15 improvement program and expansion capital program,
16 construction program, and that they were going to be
17 selected as one of the financial institutions to
18 help the agency issue those bonds.

:46PM

19 Q Did you tell Defendant Blagojevich about this?

:47PM

20 A No, I did not.

21 Q Why not?

22 A I knew he would be upset.

:47PM

23 Q Did you have any concern that he would follow
24 through on the directive that he'd previously given
25 you?

Harris - direct by Hamilton

2367

1 A Yes.

2 Q Ultimately did Defendant Blagojevich's wife get a
3 job?

4 A Yes, she did.

:47PM

5 Q And at that point did Defendant Blagojevich's
6 request to you to find or create a position for her
7 stop?

8 A Yes.

:47PM

9 Q When was Defendant Blagojevich's term as Governor
10 scheduled to end?

11 A January of 2010.

:48PM

12 Q Based upon what he told you, were you aware that
13 he had any plan for what he was going to do at the
14 end of his term in 2010?

15 A No, no concrete plans.

16 Q Did he tell you whether he was planning on
17 running for reelection?

18 A He told me he did not want to run for reelection,
19 he did not intend to, it was a last resort.

:48PM

20 Q Focusing on 2008, what, if anything, did
21 Defendant Blagojevich tell you about his fundraising
22 goals for 2008?

23 A I was present at meetings when he discussed his
24 goals. He didn't establish his goals or tell me
25 about his goals, but I understood his goals to be

:48PM

Harris - direct by Hamilton

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1 somewhere in the neighborhood of either 2 or
2 4 million dollars. I wasn't sure whether or not the
3 4 million-dollar was a half year goal or a full year
4 goal.

:49PM

5 Q Based upon what he told you, did you have an
6 understand as to why he had a fundraising goal like
7 that for 2008 if he did not intend on running for
8 reelection?

:49PM

9 A No, he didn't explain to me why, but I just
10 understood it to be necessary for him to continue to
11 be effective as Governor.

:49PM

12 Q When you say it was necessary for him to be
13 effective as Governor, what do you mean?

:50PM

14 A Well, politicians often consider the size of a
15 politician's campaign fund as evidence of the
16 Governor or any elected official's support, their
17 ability to influence others, and to fend off threats
18 from others that might seek to take them on or
19 challenge them either in their own party or from
20 another party. So the size of your campaign war
21 chest is a demonstration of your political power and
22 your support.

:50PM

23 MS. HAMILTON: Judge, I'm about to switch to
24 a the different topic, do you want me to keep going
25 or stop?

Harris - direct by Hamilton

2369

1 THE COURT: How much longer is your next
2 topic?

3 MS. HAMILTON: More than ten minutes.

4 THE COURT: Good.

5 :50PM 9:30 tomorrow morning.

6 THE MARSHAL: All rise.

7 (The following proceedings were had out of the
8 presence of the jury in open court:)

9 THE COURT: Please be seated in the
10 :51PM courtroom.

11 Those of you in the gallery can leave or stay
12 as you see fit.

13 You can step down.

14 THE WITNESS: Thank you.

15 :51PM (Witness temporarily excused.)

16 THE COURT: Ms. Hamilton, how long do you
17 expect the direct to be?

18 MS. HAMILTON: Several days, Your Honor.

19 THE COURT: what?

20 MS. HAMILTON: Several days.

21 THE COURT: "Several" meaning?

22 MS. HAMILTON: I'm going to be seeking
23 permission to publish a number of the calls that
24 would be introduced into evidence some which are
25 very lengthy. So I think it's possible that my

Harris - direct by Hamilton

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1 direct examination could take us to the end of the
2 week, the trial week.

3 THE COURT: The remainder of this week?

4 MS. HAMILTON: Yes.

5 :52PM THE COURT: Do you think it'll go into next
6 week?

7 MS. HAMILTON: I don't know.

8 THE COURT: Okay. That gives me an idea.

9 Anything else we have to do?

10 :52PM MR. SCHAR: Two quick issues. I assume there
11 is no objection to the release of whatever materials
12 in evidence today?

13 THE COURT: Well, there is an objection but I
14 overruled it.

15 :52PM MR. SCHAR: Thank you, Judge.

16 And, secondly, I think this has been
17 discussed with defense counsel, there was at least
18 one, maybe several transcripts that were redacted
19 incorrectly the first time around, I think there
20 were also some calls that needed several
21 modifications. We've made those changes. I don't
22 think the defense has an objection, what we're
23 seeking is to produce a new disk with proper
24 redacted calls but we do need access to the binders
25 at some point, probably tomorrow morning, before

Harris - direct by Hamilton

2371

1 they start going through the calls just to replace a
2 couple of the calls if that's okay with your Honor.

3 THE COURT: The answer is yes as long as
4 there is somebody from the defense there.

5 Anything else?

6 See you in the morning.

7 (Adjournment taken from 4:53 o'clock p.m. to
8 9:30 o'clock a.m. on June 22, 2010.)

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:53PM

Harris - direct by Hamilton

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4

5 I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT
6 FROM THE RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED
7 MATTER

8

9

10 /s/Blanca I. Lara

date

11

12

13

14

15

16 Blanca I. Lara

Date

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